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THE JUSTICE DEPARTMENT'S HANDLING OF THE YAH LIN "CHARLIE" TRIE CASE

HEARING

BEFORE THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

SEPTEMBER 22, 1999

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WEDNESDAY, SEPTEMBER 22, 1999

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:17 a.m., in room SD–628, Dirksen Senate Office Building, Hon. Fred Thompson, Chairman of the Committee, presiding.

Present: Senators Thompson, Collins, Domenici, Specter, Lieberman, and Levin.

OPENING STATEMENT OF CHAIRMAN THOMPSON

Chairman THOMPSON. The Committee will come to order, please. I think some of the other colleagues will be joining us, but I think we will go ahead and get started this morning.

This Committee, the Governmental Affairs Committee, conducted an investigation in 1997 into illegal and improper activities with regard to the campaign financing of the elections in 1996. During that same period of time, the Department of Justice was conducting its own investigation. We, of course, looked at many things. We, unlike the Department of Justice, were not just concerned with allegations of criminal activity, but also allegations of improprieties. We were concerned about the flow of money into the campaigns, into the Democratic and Republican National Committees during that time, and we were especially concerned about the flow of foreign money into our campaigns or our committees during that period of time.

In thinking back over that, as I have these last few days since some of the most recent information that we are going to be discussing today came to light, I am reminded of what I felt at the time was a lack of cooperation on the part of the Department of Justice.

I remember the controversy concerning giving the immunity to the nuns with regard to the Hsi Lai Temple matter. Even though it now appears that they had a pretty clear policy of not prosecuting such people, we had to go around and around and around as our hearings were getting started about something as innocuous as getting the Buddhist nuns in here to talk about who facilitated that particular transaction, which, of course, was an illegal fund raising scheme.

We were constantly told that the Department of Justice could not be of assistance to us because we were getting into matters that pertained to an ongoing criminal investigation, and those were the

magic words that were used to shut us out time and time again. No congressional committee wants to interfere with an ongoing criminal investigation, and every congressional committee wants to think that statements such as that are being made in good faith, and we wanted to be cooperative. But we also wanted to be treated up front and fairly.

But time and time again we saw things that indicated to us that there was not a very aggressive criminal investigation going on. I said it at the time. I said back in the middle of 1997 that I had at that point already lost confidence in the Department of Justice's ability to carry on this investigation.

We saw foot dragging. We saw witnesses leaving the country. Our own investigators had to rapidly gear up and find offices and get computers, but time and time again, we were ahead of the FBI and the campaign task force investigators in terms of interviewing people. We had a hard time figuring that out.

My experience over the last 30 years with the FBI, both as an Assistant U.S. Attorney and as a defense counsel, was not consistent with that.

We then, after our hearings were over and done with, were presented by the Attorney General with information concerning two different individuals who had close ties to the Chinese Government, which was relevant to our inquiry with regard to the flow of Chinese money. The Department told us that the FBI had had that information in their file, in some cases some information for years, and the FBI and the Department of Justice apparently weren't talking to each other about those things and had simply overlooked it. And, clearly, the Department of Justice had not tried very hard to find out what was in its own FBI files. And probably the same thing can be said with regard to the FBI itself.

The Intelligence Committee, of course, has since come out with a report that says that the Department of Justice did not devote adequate resources to trying to get to the bottom of the flow of money from China into the campaigns that year.

So the bungling got so bad that there was finally a shake-up at the campaign task force and Mr. LaBella was brought in. Of course, he took a look at the entire mess and said we should have an independent counsel. Louis Freeh did the same thing. But throughout all of this, all of the missteps and all of the strange, inexplicable behavior from the standpoint of people who are supposed to be aggressive prosecutors, and all of the questions raised with regard to the prosecutors' independence and objectivity the Attorney General maintained that there would be no independent counsel, that there were no triggering events, and that she saw no political conflict of interest.

She saw one with regard to Jim Guy Tucker. She saw one with regard to James McDougal. But when it came to Charlie Trie and John Huang and people like that, it was a different story. Certainly Mr. Trie had closer ties, apparently, to the President than Mr. Tucker, who, I read, was not even a particularly close political ally. But, anyway, she maintained that we would keep it in-house, keep it in Justice, we will have an aggressive prosecution, leave no stone unturned, and no questions would ever have to be asked about the

aggressive prosecution that the Justice Department would conduct in this.

And, of course, now we see the results, which basically is a handful of penny-ante prosecutions. The sum total of jail time to be served by all of these people is zero; they essentially all get probation with promises of cooperation. In one case, the statute of limitations was allowed to run out. With regard to Mr. Huang, as I recall, there is nothing even charged against him with regard to campaign finance violations in connection with the 1996 campaign.

So, today, I think we will have a little additional insight as to why this pitiful story has played out the way that it has.

Now, we have some FBI agents here on our first panel, and we subpoenaed these people. This is not going to be an easy session for them, but they are going to be under oath. They have been candid to us in their private interviews, and I know that they will tell the truth here today.

Unfortunately, it seems that until people are willing to step forward and tell the truth, that is the only way you find out about things and the only way that you can ultimately work toward a system where we maintain our rule of law and maintain the respect that the people have for the rule of law in this country, and the respect they traditionally have had for the FBI and the Department of Justice.

We are going to look at some of the problems that we had generally with regard to this campaign finance investigation, and we are going to look more specifically with regard to Charlie Trie and the investigation that this Committee and the FBI had with regard to him.

As we recall, Mr. Trie was a long-time personal friend of the President from Arkansas, a restaurateur, had a trading company business that he set up, apparently totally financed by Ng Lap Seng of Macau—a man who has close ties to the Chinese Government, and is allegedly involved with triads. He is in the casino business in Macau, etc., and was in the White House ten different times. He apparently funneled $220,000 through Mr. Trie into the DNC.

Mr. Trie also, as we recall, was the facilitator of the President's Legal Expense Trust money, $789,000 in sequentially numbered money orders that he dumped on the table 1 day. Of course, Mr. Trie fled the country—but he left behind his assistant, Maria Mapili.

So this Committee subpoenaed Mr. Trie's business that was under the control of Ms. Mapili at that time. We asked for all documents relating to our campaign finance investigation. We also asked for documents relating to the President's Legal Expense Trust because of the allegations. All these allegations were in the newspaper by then with regard to all these matters that I have just discussed, including Mr. Trie's full background.

The campaign task force also subpoenaed documents with regard to Mr. Trie's business. So he was gone. Ms. Mapili was here. We know now that Mr. Trie by telephone was instructing Ms. Mapili to destroy documents that we had subpoenaed, that the campaign task force or the grand jury had subpoenaed, that she did destroy documents, that she apparently destroyed documents off and on

and discarded documents, threw them in the trash, tore them up, whatever, from June until October 1997. And the thing about it is that the FBI and the Department of Justice knew that she was destroying documents as early as June 1997.

We will hear the testimony today—but apparently the FBI tried to get a search warrant to prevent this—but between June and October, the Department of Justice maintained that there was not probable cause and did nothing to prevent this destruction of documents. Of course, when they finally went in there in October, they were checking the trash. They were doing trash covers, which does not require a search warrant because there are no Fourth Amendment implications if people discard things outside their home. So they were checking these trash covers and realized that the information they were getting was responsive to these subpoenas. And yet nothing was done to stop this destruction of evidence.

So when finally in October—this was going on basically during the entire time of our hearings, because, really, the search warrant was turned down by the Justice Department almost contemporaneous with the first day of our hearings. And finally a search warrant was issued along about the time we were finished up, coincidentally.

Of course, when they went in there, they found information that was sufficient to indict Mr. Trie with regard to obstruction.

But specifically with regard to this Committee, information concerning the President's Legal Expense Trust, apparently the Department of Justice was told that Ms. Mapili was discarding, destroying, throwing away those documents under our subpoena. The Justice Department did nothing to stop that, and did nothing to inform us of what was going on.

We will also hear of other problems that plagued the investigation in terms of the kinds of control that were exercised, what I think has to do with some cases of incompetence, certainly arrogance in some cases, and, most importantly, missed investigative opportunities.

Now, to cap it off, apparently all of this greatly concerned these investigators who were out on the job, trying to follow leads, trying to get to the bottom of this very complex case in a reasonable period of time. Because of all the problems that they were running into, the decision was made to keep detailed notes about these things, about what was going on in case anybody might want to go back and retrace and look and see exactly what happened. And notes were kept, and those notes were turned over to the Department of Justice. And when they were returned to the note takers, 27 pages were missing—covering that crucial period of time where the disputes were the greatest with regard to whether or not a search warrant ought to be issued for Mr. Trie's business and residence and Ms. Mapili's residence.

So that is kind of mind-boggling, and I don't want to say more than the facts will justify because we have the people here today with the facts. But I assure you we intend to get to the bottom of it.

Senator Lieberman.

OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Thanks, Mr. Chairman.

Mr. Chairman, our staff has done a significant amount of background investigation in anticipation of this hearing, including speaking to each of the witnesses that we're going to hear from today. In reviewing the memos my staff has given me on those interviews, I am struck by the differing accounts our various witnesses offered of the events we are going to be discussing today. So I am going to withhold judgment on any of this until after hearing from those witnesses ourselves.

I do, though, have a few observations based on the information that I have and what I have read thus far.

First, it is hard to come away from this story, even just reading the interview summaries, without a sense of dismay at what would at best be called a culture clash between the FBI agents investigating the case and the Department of Justice attorneys in charge of prosecuting it. As I said, it would at best be called a culture clash, at worst I think a very destructive lack of communication or cooperation.

This is disturbingly reminiscent, Mr. Chairman, of what we found in our closed hearings on the Wen Ho Lee case, and particularly on the FBI and DOJ interaction during that investigation of the compromise of the W88 nuclear warhead, in which some similar discussions and disputes occurred between a different set of Department of Justice lawyers and FBI agents, strangely enough, and coincidentally enough, I am sure, beginning in the precise same week of July 1997.

Mr. Chairman, you and I have both been privileged to be lawyers and been involved in the courts, and I think I would certainly say that there is an extent to which at every level of prosecution and investigation there is an inherent—I won't say conflict, maybe not even tension, but there are different roles here that the investigators and the prosecutors have. And yet I find myself, as I read the summaries, wanting to say to everybody involved here. "Folks, we are on the same side. Why aren't we working together better to achieve the purpose, which is prosecution and enforcement of the laws which we have passed."

And, of course, when the case is as inherently political as this one is by the subject matter being investigated, it naturally raises questions about whether this is just a case of the lawyers being lawyers and investigators being investigators, or whether something more sinister is happening. I would say from my own conclusion and what I have read that I see no evidence to suggest that anything more sinister such as a political cover-up was occurring, notwithstanding how exasperated I, myself, have been as I read the documents about some of the decisions that were made by the Justice Department attorneys in this matter.

Mr. Chairman, as you have indicated, the Attorney General herself in some sense has responded to exactly this culture clash problem on September 16, 1997, when she, as a report from the *World News Digest* I have in front of me says, reshuffled the probe team and removed Laura Ingersoll from the leadership of this task force and brought in Charles LaBella. The news report that I have said that Justice Department officials said that Reno was concerned

over the slow pace of the investigation and friction between Department prosecutors and FBI agents on the team also part of the shuffle because of, "embarrassing blunders," notably, when the Attorney General was surprised by news reports in early September that soft money raised by the Vice President had been diverted improperly to the Clinton-Gore campaign.

So that there was a response generally to the problem I have described, but I must say that I don't have any confidence that this kind of problem is not continuing to go on, and I do think that it calls out for the direct involvement of the Attorney General and the Director of the FBI. I don't know how you begin to undercut or diminish a culture clash or a lack of communication and cooperation. But if these two cases, the Trie case and the Wen Ho Lee case, are examples of more that is going on between Main Justice and FBI, my own sense—and I am judging this more from my own experience in Connecticut—is that in the field the cooperation, because it is more daily, tends to be better.

But if these interactions we have seen in these two cases are typical of even a small portion of the interaction, then it really cries out for involvement by the heads of these two agencies and, I must say, perhaps the involvement of the President of the United States who appointed both of these people, who was the head of the government, to call these two in and say we have got to figure out a way to undercut this clash and improve this communication and cooperation, because it is impeding the successful investigation and prosecution of serious crimes.

The second point that I would like to make here at the outset is that in going over the papers in preparation for the hearing this morning, I was once again struck by something we first learned during our Committee's 1997 investigation of the 1996 campaigns, and that is how murky and inadequate much of our campaign finance laws are when it comes to criminal penalties and how difficult we have made it for those trying to enforce those laws and use criminal sanctions to deter and punish those who would violate campaign finance laws.

It seems to me—and we will hear more as the hearing progresses—that at least some of the Justice Department decisions that the agents interpreted as a lack of aggressiveness, although not all of them, were, in fact, dictated by some of the realities of our campaign finance laws, which don't prohibit actions, surprisingly, that we would all like to think are or at least should be illegal. Let me just mention a few of those.

One is the fact that the Federal Election Campaign Act, FECA, fails to authorize felony prosecutions for violation of the act, no matter how egregious the nature of the offender's actions. And this, of course, has led both the FBI and the prosecutors to ultimately try to find other felony charges such as false statements to the government or conspiring to defraud the government to bring these violators up on. But the absence of that felony count in FECA often has put prosecutors, notwithstanding and pushing aside a moment the disagreements here about judgments on search warrants and the like, but to either turn to other non-FECA laws or, for a reason I am about to explain, to plea bargain and to result in no time in jail being given to the violators.

So I am going to mention a series of things here, and it is my intention to submit an amendment to the McCain-Feingold bill when it comes up to deal with these inadequacies in the criminal law of campaign finance law.

The second is that the Sentencing Guidelines, which determine so much that occurs in criminal matters, are inadequate to this particular area of criminal violations. It is very hard under the existing guidelines to incarcerate a first-time offender. Inevitably, I think the prosecutors end up in a weak position to plea bargain, and in the end are forced to compromise out at a relatively low level of punishment and, therefore, a low level of deterrence.

One of the things I hope we will do is to ask the Sentencing Commission to promulgate a specific guideline on campaign finance violations that will make it easier to do what I believe Congress intended and justice requires, which is to put some of these egregious violators into jail.

We also ought to extend the statute of limitations for criminal violations of FECA from 3 to 5 years. The 3 years makes it very difficult in some cases to pursue these cases adequately.

Then there are two provisions I intend to offer that are not implicated specifically today—but we have talked about that—are really mind-boggling to me. Prior to the 1996 elections, no one doubted that the campaign finance laws prohibited foreign nationals who are not lawful permanent residents of the United States from giving any type of money, hard or soft, to political parties. But there is a decision actually from the judge presiding, as the people in front of me know, over the Trie case, which took issue with that view, holding that the campaign finance law prohibits foreign nationals from donating hard money but not soft money. That is outrageous.

As is, the other possible interpretation here that the current state of the law does not actually prohibit a conduit soft money contribution, that is, a person giving a very large amount of money in soft money to a third party to make that contribution in his name, which, if hard money, is clearly illegal, and people have been prosecuted for those.

So I hope that when we come to McCain-Feingold, as I gather we will soon, we will close some of those loopholes in the criminal aspect of the campaign finance laws so that we will show that we are prepared to put some teeth behind our rhetoric about some of the violations that have occurred.

Notwithstanding all of that, I remain extremely troubled by this case and what I have read about it, and I look forward to the testimony this morning in the hope that—in some sense, Mr. Chairman, this is an awkward hearing to get into the inner workings of the investigative and prosecutorial branches of our government. But this is an oversight committee, and I think if we do it right, we can tell a story here, hopefully, that will prevent this kind of disagreement and lack of communication and cooperation from occurring in the future. Thank you.

Chairman THOMPSON. Thank you very much.

Senator Collins, did you have a comment?

Senator COLLINS. I do. I noticed Senator Specter was here before I was, so if he would like to go first, then I would give my statement.

Chairman THOMPSON. Yes.

Senator SPECTER. I would be glad to defer to you, Susan.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you. Thank you very much, Mr. Chairman.

For many of us, the scandals that forever tarnish the 1996 campaign season are still fresh in our minds. Those of us who serve on this Committee vividly recall the 32 days of hearings—so ably chaired by our Chairman, the Senator from Tennessee—the 72 hearing witnesses, the 427 subpoenas, and hundreds of depositions. And most of all, we recall the frustration that we felt as the White House dribbled out essential documents only after key witnesses had already testified before this Committee.

In addition to the House and Senate investigations, another ran on a parallel track conducted by the Department of Justice and the Federal Bureau of Investigation through a task force known mostly by its acronym, CAMPCON. Yet although we knew that CAMPCON existed, and still exists, its operations were always cloaked in mystery. We never knew who the task force was investigating or what it was doing. And although many of us believed that the investigation should have been conducted by an independent counsel, Attorney General Reno repeatedly rejected that approach. Instead, she assured this Committee that the internal task force had all the resources it could possibly need, that CAMPCON could do the job, and that the Justice Department would cooperate fully with the Senate committee's investigation—assurances that now ring hollow.

Today's hearing is important because it gives us a glimpse into the workings of the campaign finance task force some 3 years after it was first created, and it raises important doubts about the Department of Justice's commitment to assist this Committee in its investigation. We will hear from the FBI agents and some of the attorneys who worked directly on the investigation of allegations surrounding Charlie Trie, a key figure in this campaign finance scandal. And we will learn how the FBI investigators and Justice Department attorneys worked together or failed to work together on this particular case.

Bear in mind, too, that this is no ordinary case. Charlie Trie was prosecuted for, among other things, obstructing this Committee's investigation of wrongdoing. According to testimony at his trial, Mr. Trie told an employee to destroy documents days after she was served with this Committee's subpoena. So today's hearing is not only about CAMPCON's investigation of Mr. Trie; it is also about whether the Justice Department failed to use the information and tools at its disposal to come to the aid of this Committee and to protect and ensure the integrity of our investigation against this threat of obstruction.

Mr. Chairman, I very much appreciate your holding this important oversight hearing. I look forward to hearing the testimony of the FBI witnesses who are here today. I appreciate their assistance

to the Committee, and I look forward to questioning the Department of Justice representatives as well. Thank you.

Chairman THOMPSON. Thank you very much.

Senator Specter, did you have a comment.

OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. Thank you, Mr. Chairman. Just a few words.

I commend you for convening this hearing and the efforts of this Committee to get to the bottom of the Charlie Trie plea bargain. This is one of many instances which require very intensive oversight.

The Judiciary Committee had a brief briefing on a number of plea bargains, Huang and Chung, and listening to them last week, I was astounded.

John Huang received probation where there was not consideration given to the fact that he was not only a conduit for illegal Chinese contributions, but also John Huang had access to confidential information in the Commerce Department. He went across the street. He faxed a lot of materials to the Lippos and the Riadys, and that wasn't taken into consideration on sentencing.

I asked why not. Well, he wasn't convicted. Well, you don't have to have a conviction for a judge to take matters into account at sentencing. There is a broad range of considerations which the judge may take into account.

Johnny Chung got probation as well. Why? Because there were only misdemeanors on campaign finance reform matters. But Johnny Chung also had a conviction for bank fraud, which was a felony, if you want to make a distinction between felonies and misdemeanors.

When I was district attorney of Philadelphia, I looked much more to the substance of what was done than to the common law or statutory classification of misdemeanor or felony as to what had happened. The sentencing judge did not have before him the import of Johnny Chung's receipt of $300,000 from a ranking Chinese military official. And I only scratched the surface in those few comments.

This afternoon in room S–407 there will be another secret briefing of the Senate on Wen Ho Lee. The Attorney General testified on that subject on June 8 in what, in my opinion—and I said so at the time—should have been a public hearing. And for the past 3½ months, we have been struggling to try to release her testimony, and it comes back from the Department of Justice so badly redacted you can't tell anything except name, rank, and serial number of the Attorney General. And so the chase goes on.

When the Attorney General moved in September 1997 to bring in Charles LaBella, whom she summarily dismissed and who was passed over for the U.S. attorney position for San Diego in a matter of recrimination, she did so because the CIA came forward and told this Committee what was in the FBI files that the FBI hadn't told us about. And I believe that Director Freeh didn't know about it because I am confident in his integrity.

But there is a culture here of not making disclosures which are embarrassing, and I think that is a culture which goes beyond the

FBI and beyond the CIA to many agencies. And that has to be thwarted. That has to be dug out.

When we had the Aldrich Ames case, the Inspector General of CIA said the three CIA directors should be held personally responsible for Ames, even though they did not know about Ames or had reason to know about Ames—Gates and Webster and their successor. And they came forward complaining bitterly, and I am not sure that you can go that far, but maybe you should. When you are dealing with matters of this importance, the head man has to be responsible or the head woman has to be responsible to ferret it out. And if you don't put enough pressure on it—and for the Attorney General to come in and say that everything was rosy at Waco without really digging in, knowing the background and the culture of the FBI and the culture of all Federal investigators at ATF after the experience at Ruby Ridge as well, is just preposterous.

When I think about our failure to have adequate oversight on the Department of Justice, I really just broil.

Mr. Chairman, we have got a lot of work to do. My opening statement is already too long considering that we really want to hear from these agents. Just let me make one final comment.

The schedules around here are impossible, especially in September. The conference Committee on agriculture appropriations was meeting late last night. We didn't do a thing, so much haggling and arguing, and we have resumed that again at 10:30 this morning. But my amendment on dairy was not first up, so I wanted to come here for as long as I could stay.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Senator Domenici, did you have a comment.

OPENING STATEMENT OF SENATOR DOMENICI

Senator DOMENICI. Well, I do, Mr. Chairman. It will be very brief.

I sat here for most of the hearings that you conducted in reference to the 1996 Federal election, and I believe before we are finished everything you said at those hearings and everything you tried to do would turn out to be correct. The kinds of things that we should have been able to accomplish were much more in terms of finding out who did things wrong, terribly wrong, in that election.

Frankly, my good friend Senator Lieberman talked here about how difficult this kind of hearing is. And it is difficult because DOJ and the FBI are part of another branch of government doing their job. But I tell you, the best thing I can say about this is that it reeks of impropriety. This whole episode, once the Department of Justice decided to investigate Charlie Trie themselves, it reeks of impropriety.

Frankly, I believe DOJ has done some things that we ought to be able to find out. If they don't have anything to hide about the politicization of the Charlie Trie investigation, then why aren't they forthcoming? If you want to have closed hearings, if you want to have secret hearings, we will do it. They didn't want to do that. They don't want to do it. DOJ wants to keep this investigation and others to themselves and let the whole country think they did a

great job going after those who violated the election laws of this land in 1996. They want everybody to think they did, and they want every once in awhile to give one of the culprits a little bit of a slap on the wrist, like they did to Charlie Trie. Frankly, I am here to support you. I don't know where we can go next. It has been the most difficult job for you of any job that you could have ever had as you arrived on the scene here in the U.S. Senate. And thank God it is getting a little bit easier because you are making a little headway. I hope you make big headway, Mr. Chairman.

Thank you.

Chairman THOMPSON. Well, I think we are making some headway. I was encouraged by some of the more recent efforts to be forthcoming yesterday by the Department of Justice in doing basically what they should have been doing all along in terms of cooperating with us and furnishing witnesses and things of that nature. But then I remembered the last time that a congressional committee—the House Government Reform Committee—subpoenaed documents with regard to this matter we are hearing today. In response to that subpoena, the Department sent over a bunch of documents, but as many as 27 pages with regard to the conflicts that they were having over there and some of the Justice Department's behavior turned out to be missing.

So, I don't know what to think about that. I appreciate the movement on the one hand, but what in the world do you think about that vital omission? Because if the pages were missing, then you don't know the questions to ask. Fortunately, we had some guys around here from the old days who had enough suspicion to start asking questions and bringing people in and find out the fact that, indeed, there was more that should have been submitted to the congressional committee than, in fact, was submitted. So maybe at the end of the day we will know more about that.

Our first panel consists of three current and one retired agents of the Federal Bureau of Investigation. Ivian C. Smith is a retired Special Agent in Charge from the Bureau's Little Rock office. Roberta Parker, Kevin Sheridan, and Daniel Wehr are current FBI agents who worked on the Justice Department's campaign task force. The three current agents appear under subpoena.

Well, we should swear them in before we do that. Would you stand and raise your right hand, please, each of you. We will go ahead and do it all at once.

Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you, God?

Ms. PARKER. I do.

Mr. SHERIDAN. I do.

Mr. WEHR. I do.

Mr. SMITH. I do.

Chairman THOMPSON. All right. Be seated, please.

Do any of you have opening statements that you care to make, Mr. Smith?

TESTIMONY OF IVIAN C. SMITH, FORMER SPECIAL AGENT IN CHARGE, FEDERAL BUREAU OF INVESTIGATION

Mr. SMITH. Thank you, Mr. Chairman and Members of the Committee.

One of your staff members contacted me after I moved to Virginia in July of this year. I told them I would try to be cooperative, but I, of course, did not have records that would be available for me to review to refresh my recollection of events that occurred almost 2 years past.

But I felt uncomfortable with contacting my former colleagues and, in fact, have not seen them, until this morning, in quite some time. However, I did receive a heavily redacted copy of my memorandum of August 4, 1997, that seems to be the focal point of your interest in me, this past afternoon. The mails do not move very quickly in Laneview, Virginia, but we like it that way.

And I should point out that I was a special agent in charge of the FBI in Arkansas for the period of July 31, 1995, to July 31, 1998. And shortly after I arrived there to assume those duties, I caused a crime survey to be conducted and concluded that public corruption should be the number one priority for the FBI in that State. A subsequent crime survey supported that conclusion, and it became the highest priority within the Division and due to its priority something that I took a personal interest in—all public corruption investigations to include the one entitled "CAMPCON."

And from the beginning there seemed to be problems of aggressiveness and timeliness of investigative avenues. Basically, the energetic special agents who were assigned to investigate the matter, and this does not necessarily include those at FBI Headquarters, were intent on conducting a thorough and objective investigation with expediency and let the chips fall where they may. This is the manner that public corruption matters must be conducted. But investigative decisionmaking was slow, if at all, and did not lend itself to resolving this matter either quickly or thoroughly. Now, I periodically discussed my concerns with Deputy Assistant Director Neil Gallagher at FBI Headquarters, as well his designated agent to head the task force, Jeff Lampinski.

Finally, for the only time in 3 years as special agent in charge, I called Louie Freeh, the director of the FBI. And I called him on the afternoon of July 31, 1997, after talking with these special agents here today. Director Freeh and I talked the next day, and after listening to my concerns, he asked that I put the information on a memorandum and direct it to his personal attention.

Now, basically, the concerns expressed in the memo are self-evident, but I will briefly detail them today, and I should note that the stated concerns were not necessarily inclusive. For example, while we were attempting to obtain a subpoena, Eric Yaffe, an attorney for the Department of Justice, asked for probable cause, an element even a rookie attorney knows is not required for this nonintrusive technique.

Further, we were not allowed to monitor Maria Mapili's reaction to being served with a subpoena. It should have been a search warrant anyway. This led to a Fayetteville, Arkansas attorney, W.H. Taylor, making the almost 4-hour drive to represent Ms. Mapili without determining how Ms. Mapili, with literally hundreds of attorneys in the Little Rock area—that is an attorney-rich environment—just happened to choose an attorney whose primary duties involved personally representing Don Tyson of Tyson's Foods. This was the same W.H. Taylor who took possession of several boxes of

documents from Ms. Mapili, and though we had legally every reason to stop the vehicle, a decision that had been researched by both Special Agent Wehr, who was a practicing attorney before he came into the FBI and the Little Rock chief divisional counsel, the Department refused to authorize a legally legitimate activity.

This, of course, led, eventually, to the decision to allow a search of Ms. Mapili's residence—a course of action, as I noted, that should have already been taken. But on the eve of conducting the search, approval was withdrawn. And I should point out this eleventh-hour disapproval was not——

Chairman THOMPSON. The approval was withdrawn, did you say?

Mr. SMITH. Was withdrawn. And this eleventh-hour disapproval was not based, I was told, on a lack of a probable cause, but due to Ms. Mapili being represented by counsel. Meanwhile, a departmental attorney, William Corcoran, had traveled to Little Rock himself, and he had been told that Taylor was returning the next morning to Fayettville with the documents from Ms. Mapili's residence.

Mr. Corcoran made arrangements to meet Taylor before Taylor left Little Rock, but the meeting did not occur. Mr. Corcoran was still asleep in his hotel room when Mr. Taylor left with the documents and returned to Fayettville. Before departing for Little Rock, however, Mr. Corcoran had handled the grand jury appearance of what we believed was an important witness.

Chairman THOMPSON. And Mr. Corcoran was on the Campaign Task Force as an attorney; is that Mr. Corcoran?

Mr. SMITH. Yes, he had some role to play, Senator.

Chairman THOMPSON. All right.

Mr. SMITH. This was a witness that had personal knowledge of some of the principals of the investigation and one that I, personally, had traveled to meet at a location considerably out of Little Rock and convinced that he was important to the investigation and that he should cooperate. He had agreed to do so. Now, due to both personal and financial losses, he was emotionally fragile, but had an excellent recollection of important information, and he recognized what was relevant.

This information was relayed to Washington. But when this witness returned, he was devastated, not only from the manner he was treated, but more important, how he was handled in the grand jury. Essentially, he stated, they—meaning the departmental attorneys handling this grand jury appearance, and that included Mr. Corcoran—did not really want to hear anything he had to say. I later determined it was apparent to one of the agents that Mr. Corcoran had not even read the document detailing the information this witness had to offer before sending him in to the grand jury.

As we continued the investigation, a trash cover of Ms. Mapili's residence revealed documents; in this case, checks with Asian-sounding names all in the amount of $1,000 payable to the "Presidential Legal Expenses Trust," were being destroyed.

I was told a departmental attorney, Laura Ingersoll, stated this matter would not be pursued and, further, she was of no obligation to advise the Senate Ms. Mapili was routinely destroying documents covered by a Senate subpoena. This is the same Attorney Ingersoll who advised Special Agent Parker that she needed probable

cause to convict to obtain a search warrant for Ms. Mapili's residence, a legal standard not required to conduct a search.

It became apparent that the Senate's own investigators were ahead of the FBI, while conducting parallel investigations, principally due to a lack of timely decisionmaking by the Department. Now, I should point out that I find it incredulous that the experienced FBI investigators had to obtain permission to conduct even the most routine interviews from what were apparently inexperienced attorneys at the Department.

If I may editorialize briefly, this is a trend that I find increasingly occurring in these types of investigations, as well as for FBI personnel assigned to various Independent Counsel investigations. It is an unhealthy trend. It violates the traditional distinction between the roles of the investigator and the prosecutor.

I also should note that I have been contacted by two other entities regarding my memorandum. I was contacted by a member of the staff of Congressman Burton's Committee in the House of Representatives. I was also contacted by representatives of the Department of Justice shortly before I left Little Rock. As I recall, on that occasion, there were five or six people in Washington on a speaker phone for the interview. They had me outnumbered.

Finally, I should point out that the three agents here today are representative of the hardworking and dedicated men and women of the FBI. In this investigation, they deserved better support than they received.

Now, while I cannot speak with certainty about Agents Wehr and Sheridan, I have been advised that when the kudos and awards were being passed out for the Charlie Trie successes, Special Agent Parker's contributions were ignored. Perhaps I should ask that a representative of the FBI, who is monitoring these hearings, bring this to the attention of the director, with my compliments.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much, Mr. Smith.

Let me go down the line here and tell us a little bit about yourself. How long were you with the FBI?

Mr. SMITH. A little over 25 years, sir.

Chairman THOMPSON. And was your last assignment at SAC in Little Rock?

Mr. SMITH. Yes, it was.

Chairman THOMPSON. Did you have basic overall supervision of the agents working there in Little Rock?

Mr. SMITH. Yes, sir.

DANIEL WEHR, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATIONS

Chairman THOMPSON. All right. Now, in Little Rock, as far as the Trie matter is concerned, Mr. Wehr, I think you were on the so-called Trie team, I guess, would be a way to put it.

Mr. WEHR. Yes, sir.

Chairman THOMPSON. How long have you been with the FBI?

Mr. WEHR. I have been with the FBI a little—well, I am going on 17 years.

Chairman THOMPSON. Seventeen years. Are you also an attorney?

Mr. WEHR. Yes, sir.

Chairman THOMPSON. Were you a practicing attorney before you became a member of the FBI?

Mr. WEHR. Yes.

Chairman THOMPSON. So what were your duties with regard to the campaign finance investigation?

Mr. WEHR. I was the case agent for the Arkansas aspect of the investigation.

Chairman THOMPSON. All right. And who worked with you in that regard?

Mr. WEHR. We had a team of support personnel that worked with me and one other agent, Ricky Blair.

Chairman THOMPSON. All right. Mr. Sheridan, what was your role with regard to the campaign finance investigation?

KEVIN SHERIDAN, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATIONS

Mr. SHERIDAN. I was assigned in Washington, DC, to investigate Charlie Trie and other allegations relating to the CAMPCON Task Force.

Chairman THOMPSON. All right. And how long have you been with the FBI?

Mr. SHERIDAN. I have been with the FBI for a little over 4 years.

Chairman THOMPSON. Four years.

ROBERTA PARKER, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATIONS

Ms. Parker, how long have you been with the Bureau?

Ms. PARKER. I have been with the Bureau 17 years.

Chairman THOMPSON. Seventeen years. You are also an attorney, I believe?

Ms. PARKER. Yes, I am.

Chairman THOMPSON. And what was your role with regard to the campaign finance investigation?

Ms. PARKER. I was the primary case agent on Charlie Trie from the inception of the investigation in January through the indictment and arrest of Charlie Trie.

Chairman THOMPSON. All right. And I believe you were primarily involved in the drafting of the affidavit for the search warrant that we will be talking about later, about early July 1997?

Ms. PARKER. Correct. I drafted that.

Chairman THOMPSON. All right. Let me do this: I want to basically kind of walk through the chronology a little bit, and then come back and talk in a little bit more detail about it. But I want the events kind of leading up to your memo, Mr. Smith. You wrote this memo, as you said, which have many of the statements that you had in your opening statement here today. You wrote that memo on August 4, 1997.

But going back, and any of you can pitch in at any relevant time that you want to and either elaborate or straighten me out on something. But this Committee, the Governmental Affairs Committee, issued a subpoena with regard to Mr. Trie's company on March 7. On June 24, I believe, was your first trash cover; is that correct?

Ms. PARKER. That is correct.

Chairman THOMPSON. And basically what is a trash cover, Ms. Parker?

Ms. PARKER. In essence, a trash cover is an investigative technique that we use to pick up somebody's trash and to determine what they are throwing out in the trash, to see whether it is evidentiary to our investigation.

Chairman THOMPSON. All right. Without getting into any grand jury material, what caused you, generally, to decide to do that with regard to Mr. Trie?

Ms. PARKER. Quite frankly, it is a technique that I utilize with all of my investigations. I have been amazed at what subjects throw out in their trash.

Chairman THOMPSON. All right. And, of course, there had been a lot of published allegations, suggestions, with regard to Mr. Trie at that time. You were aware of all of that, I am sure, by June 24, 1997; is that correct?

Ms. PARKER. That is correct. And I was also aware of your investigation.

Chairman THOMPSON. Of this Committee's investigation.

Ms. PARKER. Correct.

Chairman THOMPSON. Now, these trash covers had to do with both Mr. Trie's residence and Maria Mapili's residence; is that correct?

Ms. PARKER. That is correct. On different dates, trash covers were done by the Little Rock agents at different locations. The earliest two were actually done on Mr. Trie's house, and the last four were done on Ms. Mapili's house, with the last trash cover also done on Mr. Trie's house.

Chairman THOMPSON. And this was in Little Rock.

Ms. PARKER. That is correct.

Chairman THOMPSON. All right. Did you obtain anything of relevance and useful on that first trash cover on June 24, 1997?

Ms. PARKER. Yes, we did.

Chairman THOMPSON. In fact, you wanted a search warrant at that time, did you not?

Ms. PARKER. That, plus the subsequent trash cover, which was on July 1.

Chairman THOMPSON. All right. Then, I believe that the Campaign Task Force, on June 27, subpoenaed Mr. Trie's company and records—which was Campaign Finance Task Force-relevant information. That was on June 27.

Then, on June 29, I understand you observed Maria Mapili and two other people removing documents from Mr. Trie's residence and moving them to Ms. Mapili's residence; is that correct?

Ms. PARKER. That was pursuant to the surveillance that was on Mr. Trie and Ms. Mapili's residence that Little Rock conducted.

Chairman THOMPSON. All right. Then, on July 1, you had your second trash cover.

Ms. PARKER. That is correct.

Chairman THOMPSON. Is that correct?

Ms. PARKER. Yes.

Chairman THOMPSON. Well, bring us up-to-date then, as to where we were at that point. Again, we do not need to get into too much

detail. We will come back to it. But at that point, suffice it to say, you apparently felt that you had what you needed—they were destroying records that you felt were responsive to what or relevant to what?

Ms. PARKER. One, relevant to our overall investigation; two, that would be records that would be turned over pursuant to the Federal grand jury subpoena that had already been served upon her; and then, three, there was also a concern that she possibly might be obstructing the Senate subpoena for this Committee.

Chairman THOMPSON. All right. What happened with regard to that? Well, first of all, let me ask you this: How many of you were aware of the kinds of things that were coming out of these trash covers?

Ms. PARKER. All three of us. All of us were.

Chairman THOMPSON. All of you?

Mr. Wehr, we have not heard from you yet. How would you describe the nature of the information that you were getting from these trash covers?

Mr. WEHR. File folders containing records regarding—well, they were torn up, but——

Chairman THOMPSON. You mean, torn up in lots or little pieces or what?

Mr. WEHR. Little pieces, sometimes sprinkled in separate trash bags. They would have pieces from the same documents mixed with fish heads and garbage. It was not a pleasant——

Chairman THOMPSON. In other words, torn up in little pieces and then distributed into separate containers, in some cases.

Mr. WEHR. Right.

Chairman THOMPSON. All right. And what did you do? Were you able to piece some of it back together or——

Mr. WEHR. Well, the first step was to dry it out. The garbage was damp. And then after we did that, we pieced it together. And then the results of that were faxed to Washington.

Chairman THOMPSON. What kind of information was being discarded there in the trash bins?

Mr. WEHR. Information about Daihatsu International, the trading company that Charlie owned.

Chairman THOMPSON. And they were actually the entity that was subpoenaed in these subpoenas.

Mr. WEHR. Yes.

Ms. PARKER. And in addition to that, there was actually a financial statement from Mr. Ng Lap Seng's company; there were travel arrangements for Mr. Ng Lap Seng; there was a fax cover sheet, where something was faxed to Antonio Pan, Charlie Trie's assistant; there were some DNC faxes that had been faxed by the DNC to Mr. Trie's office/residence. So there were a number of documents that were discovered in those two trash covers.

Mr. WEHR. And also the——

Ms. PARKER. Excuse me. I was going to say that was responsive both to our Federal grand jury subpoena and also to the Senate committee subpoena.

Chairman THOMPSON. Mr. Wehr.

Mr. WEHR. I do not know if it was this time or a little bit later, but we also picked up, as Mr. Smith indicated, those checks that were torn up, copies of checks.

Chairman THOMPSON. All right.

Mr. Smith, do you recall anything in addition?

Mr. SMITH. No. What I would do is, when they would come in, I would wander back through their area there, and I watched them as they went through this. But I was actually quite astounded at the type of documents that were being destroyed, particularly given the fact that these had been subpoenaed. There seemed to be just either great naiveness or just blatant arrogance for the fact that these things were being subpoenaed, and they were being destroyed.

Chairman THOMPSON. Is there anything, Mr. Sheridan, to add that you recall?

Mr. SHERIDAN. The only additional documents seem to be correspondence either from the White House or the DNC to Mr. Trie. There were also some invitations to different functions that Mr. Trie was invited to that were also pursuant.

Chairman THOMPSON. All right. Now, we have interviewed, of course, people in the Justice Department, and we will hear from some of them today. And I think one of the things they are going to say is that, well, these documents may have been relevant, but they were not that important, and they were being responsive to our subpoena over here.

Is there any doubt in your mind, any of you, whether or not these were documents that were responsive to the grand jury subpoena and to this Committee's subpoena? Is there any doubt in anybody's mind about that?

Ms. PARKER. They were clearly responsive to the Federal grand jury subpoena. Quite frankly, I think, at that time, we did not have a copy of your subpoena. So that we really could not match up the items. We naturally presumed that they would have been responsive to your subpoena.

Chairman THOMPSON. Did you know, at that time, the fact that we did have a subpoena outstanding on Mr. Trie or Daihatsu Company?

Ms. PARKER. I was aware of that.

Chairman THOMPSON. Yes. But you did not know the details of what we were asking for.

Ms. PARKER. Correct.

Chairman THOMPSON. Ms. Parker, would you and Mr. Wehr speak a little bit more closely into the microphone.

Well, let me ask you about this: What about relevance? Were these relevant, important documents in your estimation or potentially relevant or important documents?

Mr. Smith, you say you were surprised at the nature of the things that they were discarding. Do you disagree with the argument that, well, these were just things that would not be needed or useful to anyone, I mean, as if people could take the position that if it is responsive to a subpoena, they could throw it away and make the determination themselves as to whether or not you really need it. I mean, that is an absurd argument on its face.

But with regard to its relevance and importance, you obviously had a feeling that it fulfilled both of those categories; am I reading you correctly?

Mr. SMITH. Without question. Frequently, a trash cover can be very unproductive.

Chairman THOMPSON. Have you seen a few trash covers in your day?

Mr. SMITH. I have seen a few trash covers, both on the criminal side, as well as the counterintelligence area. And I was, this one here, I was just somewhat taken aback at how fertile this technique was for us.

Chairman THOMPSON. So at this time, then, you had had the two trash covers. Up until this time, had you had any discussion with the people in the Department of Justice who were handling the Campaign Task Force with regard to what was turning up in these trash covers?

Ms. Parker.

Ms. PARKER. Yes.

Chairman THOMPSON. What were the nature of those discussions up until that time?

Ms. PARKER. I recall having several conversations with Jonathan Biran and also Bill Corcoran, who were the two attorneys assigned to the Charlie Trie investigation at that particular point in time.

Special Agent Sheridan and I had conversations with them. We also had conversations with our supervisor, who was Laura Laughlin, concerning our belief that Ms. Mapili was obstructing justice, that she was throwing away items that were evidentiary to our investigation and that we should consider doing a search warrant on both the Trie location and also her residence, Ms. Mapili's residence.

Chairman THOMPSON. All right. Mr. Sheridan, were you in on those discussions?

Mr. SHERIDAN. Yes, I was.

Chairman THOMPSON. Mr. Wehr, were you aware that those discussions were going on?

Mr. WEHR. I knew they were going on, but I was not part of them.

Chairman THOMPSON. Did you have an opinion as to whether or not a search warrant should be issued?

Mr. WEHR. Yes, I did, and I agreed that a search warrant should be issued.

Chairman THOMPSON. Mr. Sheridan, what did you think?

Mr. SHERIDAN. After the first trash cover proved successful, it appeared to be our next logical step to secure that evidence.

Chairman THOMPSON. Mr. Smith.

Mr. SMITH. That is correct. We discussed the information, the items that were in the trash cover, and we discussed those things from a legal standpoint, not only with Agent Wehr, but also with the chief divisional counsel in the Little Rock office. And it was clear to us that this was certainly enough probable cause for a search warrant. In fact, it was something that needed to be done very quickly because it was a matter of evidence actually being destroyed.

Chairman THOMPSON. So they were in the process, Ms. Mapili was, to you, obviously in the process of destroying relevant, significant evidence that was covered by both a grand jury subpoena. And you assumed, because you knew we had a subpoena out to the same entity, that it was relevant to our subpoena.

So you go to the Justice Department. Tell us about your discussions there concerning the search warrant.

Ms. PARKER. We discussed all of the information with Jonathan Biran. And Jonathan Biran was well aware of all of the evidence that we had concerning Charlie Trie to that date, and he agreed with us, it appeared that we had probable cause for searches at both locations.

At that particular point in time, I started drafting the affidavit for the search warrant on both locations. After I was finished doing my rough draft, I then went and provided it to Jonathan Biran, and he made his own corrections and changes, added some things. He basically massaged it.

Senator LIEBERMAN. Do I understand that he was an attorney with the task force?

Ms. PARKER. Correct.

Senator LIEBERMAN. Working under Ms. Ingersoll at the time.

Ms. PARKER. That is correct.

Chairman THOMPSON. Well, let us get that line-up, while we are at it. Tell us about the people at the task force. Ms. Ingersoll was heading that up?

Ms. PARKER. That is correct.

Chairman THOMPSON. Supposedly at that point.

Ms. PARKER. That is correct.

Chairman THOMPSON. And what other Justice Department attorneys were involved in the effort that you dealt with?

Ms. PARKER. I am not going to be able to tell you exactly who was there. Because as the case evolved, the number of agents and attorneys increased. However, at that particular point in time, the two DOJ attorneys who were assigned to the Trie matter were Jonathan Biran and William Corcoran.

Chairman THOMPSON. All right. Go ahead. So you had these discussions up to that point.

Ms. PARKER. Yes.

Chairman THOMPSON. Then what happened?

Ms. PARKER. I provided the draft to Jonathan Biran, he massages it. Once we have—it was not a finalized draft, but kind of a work-in-process, and we provided a copy of that, I provided a copy of that to Laura Laughlin, our supervisor, and I presume that he provided a copy to his hierarchy.

Once again, we are busily working on this, trying to get everything in the process, trying to get teams ready to leave from Washington, DC, to go to Little Rock, as well as have Agent Wehr get a team ready in Little Rock. So there was a lot of work to be done. But at some particular point in time, I was told by Laura Laughlin, my supervisor, that FBI approval, hierarchy approval, had been made, and it looked like we were ready to go. It was my understanding, based on what Jonathan Biran told me, that whoever it was in DOJ had seen the affidavit and that we were fine, and we were ready to go.

Kevin Sheridan did a search plan for both locations. He compiled the team in Washington, DC. I was in contact with Agent Wehr, ensuring that a team would be in Little Rock. And I flew out on July 2, anticipating that when I arrived in Little Rock, the affidavit would be, in essence, waiting for me to take before the magistrate in Little Rock, and that I would be the affiant, that it would be approved, and that we would go forth with the two search warrants in Little Rock.

Chairman THOMPSON. So you left for Little Rock.

Ms. PARKER. Correct.

Chairman THOMPSON. So, meanwhile, what was going on back at Justice? Who on your team was there dealing with——

Ms. PARKER. Mr. Sheridan was.

Chairman THOMPSON [continuing]. With the Justice Department.

Mr. Sheridan, take us up to that point, from your vantage point that day.

Mr. SHERIDAN. My role in the search warrant affidavit, pretty much when it started to come together, I had a final copy that we were going to just pass through the chain of command, basically, and ensure that the final copy was approved that day, and then we were going to electronically send it down to Little Rock for Agent Parker.

I did that. And we had an afternoon meeting on July 2—I do not recall the exact time, early afternoon—myself, my supervisor, Laura Laughlin and Laura Ingersoll.

Chairman THOMPSON. All right. So go ahead. What happened?

Mr. SHERIDAN. We, and also as Agent Parker stated, that morning, that day, I was planning pretty much the rest of the search plan. Going directly to that meeting in the early afternoon, we had copies of the search warrant affidavit, expected it to be approved, or at least to be approved and then forwarded up to the DOJ for whatever needed to be done.

Chairman THOMPSON. Is this the affidavit you had drafted, Ms. Parker? [1]

Ms. PARKER. Correct.

Chairman THOMPSON. And what had been done? You did the initial draft, you talked to Mr. Biran, was it?

Ms. PARKER. Mr. Biran, yes.

Chairman THOMPSON. And did he have any input as to the drafting?

Ms. PARKER. Yes. He made some changes, he massaged some information, he added some things. So, in essence, once I gave him my disk, computer disk, he was working off of that to make his changes and corrections. So the final draft would have been his final work product on his draft, and that would have been the copy that would have been electronically transmitted by Special Agent Sheridan to Little Rock.

Chairman THOMPSON. All right. Mr. Sheridan, is that the copy that you had in your possession at that time?

Mr. SHERIDAN. Yes, sir.

Chairman THOMPSON. Did you transmit it to Little Rock?

Mr. SHERIDAN. No, we did not.

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[1] The drafted affidavit referred to appears in the Appendix on page 110.

Chairman THOMPSON. It never did get that far.

Mr. SHERIDAN. Correct.

Chairman THOMPSON. Because you were stopped somewhere along the process; is that correct?

Mr. SHERIDAN. That's correct.

Chairman THOMPSON. What happened?

Mr. SHERIDAN. We had the meeting—myself, Laura Laughlin, Laura Ingersoll. Within I would say about 5 minutes of the meeting, I was told that we did not have probable cause and we were not going to be conducting the search.

We discussed back and forth across the table, myself and my supervisor, Laura Laughlin, with Laura Ingersoll as to why we did not have probable cause. It was my understanding that this was just a formality in the final affidavit. I was kind of surprised at the time that we were experiencing some resistance.

We went around for about 15 minutes discussing why there was or was not probable cause, really with no more detail than what I have said, as there was really no probable cause, and I felt there was. And after approximately 15 or 20 minutes, we received a call from Little Rock in the conference room regarding, as Mr. Smith stated, boxes were being removed from Mr. Trie's residence.

At that point, things started—the pace started picking up. We kind of stopped talking about the PC issue for a moment, trying to regroup and see what was going on. The Little Rock Division was determining if—who the individual was.

Chairman THOMPSON. Mr. Wehr, I think that is where you come in. You were on the ground there in Little Rock and saw the removal?

Mr. WEHR. Right. I believe I was on the telephone with Kevin Sheridan that day.

Mr. SHERIDAN. That is correct.

Mr. WEHR. And we had what we call a physical surveillance of Mr. Trie's residence that involved a stationary surveillance and a roving surveillance of all occupants that entered or left that residence, the purpose being to try to preserve it for the search warrant and also to determine what was going on.

When a gentleman in a white Lexus showed up at the scene, and the units there reported that to me, we ran the plate and determined that this vehicle belonged to a W.H. Taylor out of Fayettville. Mr. Taylor went into the house, met Ms. Mapili, and brought out, I believe it was four boxes that appeared to be file-type boxes, banker's file type boxes, put those boxes in the car.

As soon as I heard that, I conferred with Steve Frazier, our division chief counsel, and I requested permission to do a traffic stop. I thought it was a good idea because we had probable cause that evidence was in the vehicle and that the vehicle was in motion. We were following it, and it was headed towards central Little Rock.

At the same time, I informed Kevin Sheridan of this because I was under orders at the time by Jeff Lampinski not to engage in any investigative steps without prior approval of the task force. I assume Kevin talked to the attorneys back at the task force——

Chairman THOMPSON. On that point, you said that you were told not to take any investigative steps without prior approval by the task force.

Mr. WEHR. Yes.

Chairman THOMPSON. Mr. Smith, what did you think about that?

Mr. SMITH. It is ludicrous that you cannot conduct aggressive investigations. You have to make decisions promptly on the scene, and where we have ample legal advice—this is why I made the comment about the aggressiveness of the investigator as opposed to some of those assigned at FBI Headquarters. Now, I do not know if Mr. Lampinski's orders came, something he did or a decision that was made by someone above him, but this was the norm. And it is ludicrous when you are conducting an ongoing investigation, where events unfold, that they cannot be scripted in advance. You have to make those decisions. You have to have the latitude to conduct the investigation to be successful.

Chairman THOMPSON. Did you get approval by someone there, whether the FBI legal counsel or someone there, Mr. Wehr, as far as the traffic stop was concerned?

Mr. WEHR. No, we did not. They refused to authorize the traffic stop. So we followed——

Chairman THOMPSON. I was talking about in Little Rock.

Mr. WEHR. In Little Rock, yes, in Little Rock. Oh, we had approval in Little Rock. I had approval from the chief division counsel, which is what I have to do in most cases.

Chairman THOMPSON. You go to FBI counsel, explain the circumstances, say, "Do we have probable cause to stop this vehicle? They are unloading boxes into the car," and in his opinion, you did.

Mr. WEHR. Yes.

Chairman THOMPSON. So you talk to Mr. Sheridan, who is up there talking to them about their decision not to let a search warrant continue, and you explain to Mr. Sheridan what is happening, the most recent thing that is happening.

Mr. WEHR. Yes.

Chairman THOMPSON. And because you have been told that you have got to get task force approval for everything, you try to get task force approval there. You say, "Well, what about stopping this car?" And what was their response to that, Mr. Sheridan?

Mr. SHERIDAN. At that time, in addition, Mr. Wehr was not aware that we were having the problem with PC. I had the call——

Chairman THOMPSON. Meaning probable cause.

Mr. SHERIDAN. Probable cause, yes.

Senator LIEBERMAN. Make sure that nobody thinks you mean "politically correct." [Laughter.]

Mr. SHERIDAN. No, I meant probable cause.

I had my supervisor, and I had the head of the task force in the conference room with me. I basically relayed the information that Agent Wehr stated to me, and the decision was made by Laura Ingersoll that we were not going to stop the vehicle.

Chairman THOMPSON. Now, you later learned that this fellow who was loading the boxes turned out to be Ms. Mapili's attorney.

Mr. SHERIDAN. That is correct.

Chairman THOMPSON. Mr. Taylor that Mr. Smith referred to. We will get back to that in a minute.

Let me jump ahead, and then we can all come back. But this was July 1 or 2?

Ms. PARKER. July 2.

Chairman THOMPSON. Then, on July 29, your next trash cover, that is when you discovered checks pertaining to the President's——

Ms. PARKER. Legal Expense Trust.

Chairman THOMPSON. Legal Expense Trust, yes.

Are you the witness on that, Ms. Parker? Go ahead.

Ms. PARKER. We had two other covers in the intervening time period; one on July 8 and then one on July 29. And we continued to see that there was evidence that was going on in the trash, including some checks that were to the Presidential Legal Expense Trust.

I continued to believe that we had PC and that this new information bolstered the PC, the probable cause, that we had for a search warrant. We had a meeting between myself, Jonathan Biran and Laura Ingersoll on June 29 concerning my belief that we had PC and that we should go with the search warrant.

Chairman THOMPSON. And tell us about that meeting.

Ms. PARKER. I relayed the additional information that we had from the trash cover and expressed my concern there might be an obstruction of the Senate inquiry or the Senate subpoena.

Chairman THOMPSON. Did you know any more about the Senate subpoena at that——

Ms. PARKER. No. I just knew generally about it.

Chairman THOMPSON. All right. Go ahead.

Ms. PARKER. I was told that we would not take into consideration the Presidential Legal Expense Trust issue and that we would not take into consideration the Senate subpoena obstruction issue for the search warrant.

Chairman THOMPSON. I beg your pardon? What was that last point?

Ms. PARKER. That the evidence concerning the Presidential Legal Expense Trust, the conduit situation, as well as evidence of possible Senate obstruction, we were not going to use that as PC for the search warrant for Mr. Trie's residence and——

Chairman THOMPSON. Ms. Ingersoll said that?

Ms. PARKER. That is correct. However, I will say that what she said was she directed Jonathan and myself to go to Little Rock and to view the subpoena documents in Little Rock in order to determine if there was anything further that would bolster the probable cause. However, at that particular point in time, she indicated that there was slim to nonexistent probable cause.

On July 31 and August 1, Jonathan Biran and I did travel to Little Rock. And what we looked through were the three boxes of records that W.H. Taylor, Maria Mapili's attorney, had turned over to Little Rock pursuant to the Federal grand jury subpoena.

Chairman THOMPSON. So you went to Little Rock to observe documents that Ms. Mapili's attorney had turned over to you?

Ms. PARKER. Yes, that and the trash documents. And there was a concern by both Laura Laughlin and Laura Ingersoll that we actually see the documents ourselves, both the documents that were recovered in the trash, as well as the subpoenaed documents that were produced by Maria Mapili.

Chairman THOMPSON. Well, when you observed those documents that were recovered in the trash, what——

Ms. PARKER. That basically the documents were as was relayed to us by Little Rock.

Chairman THOMPSON. And you still believe that there was probable cause?

Ms. PARKER. Yes, and I also had concern concerning her production of records pursuant to the grand jury subpoena.

Chairman THOMPSON. Of course we know now that of course, that her attorney did not turn over all the records that were supposed to be turned over, do we not?

Ms. PARKER. Because he was unaware that she had destroyed and hidden documents, correct.

Chairman THOMPSON. I mean, I am not saying whose fault it was. I mean, we just know that, because in October you went in there with a search warrant and discovered lots of additional stuff that was pursuant to your subpoena and ours both.

Ms. PARKER. That is correct.

Chairman THOMPSON. So did anyone else have any conversation with Ms. Ingersoll about the President's Legal Expense Trust situation and what you would or would not do with regard to that in terms of an investigation?

Ms. PARKER. We actually—Special Agent Sheridan and I had conversations with Ms. Ingersoll concerning the Presidential Legal Expense Trust, and how Charlie Trie was using conduits to funnel money to it. However, after looking at the law, her opinion was that there was not a criminal violation involved in that, and I do agree with her on that one.

Chairman THOMPSON. What about the fact that the Senate has subpoenaed those documents?

Ms. PARKER. Once again, at that particular point in time, I was unaware of that.

Chairman THOMPSON. When did you become aware of it?

Ms. PARKER. I did not actually see a copy of your subpoena until it came in in the grand jury subpoena documents that Jonathan Biran and I observed in Little Rock. Then I saw a copy of your subpoena, the Committee's subpoena, with the attachments.

Senator LIEBERMAN. That would have been at the end of July?

Ms. PARKER. Yes, correct.

Chairman THOMPSON. Because we have some notes. We asked Ms. Ingersoll about it, where she acknowledges in an August 4 notation that she knew of the destruction of Legal Expense Trust documents in response to the Senate subpoena. So, clearly, by August 4, 1997, she was aware of the subpoena and what it called for. At the end of July, you are saying, you were aware, or the FBI was aware?

Ms. PARKER. Correct, because Jonathan Biran and I went and observed those documents in Little Rock, and I actually copied some of the things that I thought were pertinent. One of the things that I copied was the Senate subpoena.

Chairman THOMPSON. All right. Well, was there ever a discussion with the Justice Department lawyers over the fact that you had evidence that documents responsive to a Senate subpoena were being destroyed?

Ms. PARKER. The discussion on July 29. And then after——

Chairman THOMPSON. Well, tell us about that discussion.

Ms. PARKER. Yes. It was between Laura Ingersoll, myself and Jonathan Biran, and I put forth the case that the trash cover showed there was additional evidence that was being thrown out and that we really should go ahead with a search warrant.

Chairman THOMPSON. Did you point out—including pursuant to a Senate subpoena?

Ms. PARKER. I wanted to include evidence of obstruction of the Senate subpoena and the PLET evidence.

Chairman THOMPSON. And what was their response to the Senate subpoena?

Ms. PARKER. She said that we were not going to do that. However, once again, I do not know the reason why that was her decision.

Chairman THOMPSON. Mr. Sheridan, were you apprised of any conversations about that subject?

Mr. SHERIDAN. No, I was not. And, actually, I was not really involved with the specifics of Charlie Trie at that point. As Agent Parker stated, I was involved with PLET, the President's Legal Expense Trust. It was all prior to July 1997.

Chairman THOMPSON. Anybody, either one of the two of you?

Mr. WEHR. No.

Mr. SMITH. No, sir.

Chairman THOMPSON. Going back just a little bit is your memo dated August 4, Mr. Smith, and you relate many things. We were just talking about matters that just have to do with the Charlie Trie trash cover business and the subpoena, the destruction of documents, and the attempt that the FBI made to get a subpoena to stop that destruction of documents. Fast forwarding, of course, we know a new team came in on September 16, Campaign Task Force, and on October 21 and 22, Maria Mapili admitted to the FBI that she had destroyed documents at Charlie Trie's direction, right?

Mr. SMITH. That is correct.

Chairman THOMPSON. Did you know at the time that Ms. Mapili was in communication with Mr. Trie? I say at the time. Early on, back at the time you were attempting to get the search warrant or maybe even sooner?

Mr. SMITH. The answer is yes.

Chairman THOMPSON. And then the search warrant came about October 23. You obtained documents sufficient to indict Mr. Trie. The Justice Department later dismissed that obstruction of the Senate subpoena count against Mr. Trie, and we will get into that some other occasion, but one wonders what happened. We are just seeing, perhaps, the tip of the iceberg. We are just seeing the trash covers that were covered over over a period of time. We do not know what other documents were perhaps there that you were not able to trace that were there at one time.

But anyway, you wrote, on August 4, to Louis Freeh because of your concerns. What is the background of this document? This appears to me to be something that is highly unusual for an SAC to do, to write to the director, about his concerns being stymied at an investigation. Had you ever done anything like this before?

Mr. SMITH. The only time in my career. I had a kind of an arrangement with the Director that I would not bother him if he would not bother me, and I would handle things in Little Rock, and

this worked very well. He agreed with the tack that I was taking as far as working the corruption matters and things of this nature, but this had gotten to the point that this was not one that I could handle. And after having a rather lengthy meeting—I think it was sometime around early afternoon of July 31—I then determined that I should discuss this matter directly with the Director.

Now, there had been some previous conversations with the Director from time to time, indirect conversations, and he knew my feelings on the matter I think.

Chairman THOMPSON. Were you—had you been made aware of exasperation on the part of both Little Rock special agents assigned to the investigations and also special agents assigned to the task force in Washington?

Mr. SMITH. Oh, without question. One of the things that I did—and like I say—I mentioned on these particular types of investigations, perhaps at times maybe it is too much involvement, but I wanted to know what was going on in intimate detail, particularly given the fact that an investigation of this sort that had political implications and what-have-you. I did not want any of these decisions to be made without my being aware of them, and this was the nature of my management style at that particular time. So I was in virtually daily contact with Special Agent Wehr or someone from the task force in Washington, as we discussed the progress or the lack of, of what was being done.

Chairman THOMPSON. You say here as part of your memo [1]—and you relate the things that you had in your opening statement, and I am not going to go through all of that. This has been heavily redacted, by the way, by the Department.

Mr. SMITH. But Director Freeh, in my conversation with him, has basically said, "I need specific examples."

Chairman THOMPSON. You said at the end of this, "And I met with Roberta Parker, a hard-working accomplished special agent, and Special Agent Wehr, an experienced investigator, who is an excellent lawyer in his own right and who practiced law before becoming an agent. My advice to both was to ensure there is a record, for "future historians," all that is being mishandled, i.e., if they believe there is probable cause to search Mapili's residence and this is refused by DOJ, the basis of this belief, and the reason for the refusal, should be recorded.

Further, as discussed, I would recommend you meet specifically with investigators who, I suspect, are prepared to provide details that provide the basis they have for the lack of confidence in Public Integrity's handling of this investigation.

I am well aware of such matters as "prosecutive discretion," but I am convinced the team at DOJ leading this investigation is, at best, simply not up to the task. Frankly, I base this conclusion not only on the CAMPCON matter, but other investigations Public Integrity has handled from their office due to recusals from the U.S. Attorneys. The impression left is the emphasis is on how not to prosecute matters, not how to aggressively conduct investigations leading to prosecutions."

[1] The memo referred to appears in the Appendix on page 105.

"Finally, I would point out, based on my own experience with both WHITEWATER and CAMPCON, attorneys without prior investigative or prosecutive experience should not "lead" such investigations. Investigators should be allowed to fulfill traditional investigative roles, and prosecutors serve in that capacity alone, not in directing investigations, absent individuals with requisite skills in both disciplines."

These are words from your memo; is that correct?

Mr. SMITH. Yes, sir.

Chairman THOMPSON. To Director Freeh. One of the things that you did—and then I will stop—is suggest to these other agents that they memorialize what was happening. And, Agent Parker, you did that, did you not?

Ms. PARKER. Yes. I actually had started doing that prior to that in all of my cases if it is going to be a complicated case. I actually maintained notes in a spiral notebook of every interview, of telephone calls, of meetings, of little bits and pieces of information so that I can have ready access to it so I can refresh my recollection. I had started that at the initiation of the CAMPCON investigation.

Chairman THOMPSON. All right. Elaborate a little more as to what is contained in your notebook. Did you set forth the problems that you were having with regard to this investigation with the Department of Justice?

Ms. PARKER. Less that, and more I would memorialize information that went on, meetings that went on, who was there, what was the nature of the meeting, what kind of information came out, and secondarily, I mean——

Chairman THOMPSON. Who said what at meetings sometimes?

Ms. PARKER. Generally, yes. I would not necessarily say Laura Laughlin or Laura Ingersoll said XY and Z. However, if there was an issue that I thought that there was a disagreement between myself and someone else, I would just make a note of it.

Chairman THOMPSON. You would put down the positions of the various people, perhaps?

Ms. PARKER. Right, yes. It was not a way of keeping book on anyone. It was just more of a way of what had somebody said a week ago or 2 weeks ago, so that I could recall, and what further needed to be done in the investigation.

Chairman THOMPSON. What did you do with your book with regard to the campaign finance investigation?

Ms. PARKER. I had three spiral notebooks, in fact, just like this one. They are 200-page spiral notebooks, and they are chronologically kept. And I maintained personal custody of those three notebooks throughout the whole investigation, and in fact, when I left to go out on maternity leave, I took the notebooks with me. I kept them in my possession during pretrial prep for the Charlie Trie trial, and continued to keep them until I was requested by CAMPCON, in June of this year, to actually provide those notebooks to them so that they could be produced to your Committee and also to Representative Burton's Committee.

Chairman THOMPSON. CAMPCON being the Justice Department, essentially, campaign task force?

Ms. PARKER. Yes. I actually provided the notebooks plus a whole box that I had of miscellaneous records, communications, whatnot,

that I had kept in order to prepare for the Charlie Trie trial, and I provided that all to Supervisory Special Agent Wayne Corpening, who was a supervisor at CAMPCON.

Chairman THOMPSON. FBI agent?

Ms. PARKER. Correct.

Chairman THOMPSON. What is the last name?

Ms. PARKER. Corpening.

Chairman THOMPSON. And is it correct then that you have compiled three of these 200-page notebooks with regard to this one investigation?

Ms. PARKER. That is correct.

Chairman THOMPSON. That all have to do with the Trie investigation? When I say this investigation, I am talking about primarily the trash covers, the Charlie Trie matter, all of that.

Ms. PARKER. Right. I mean, I was the primary case agent on the Trie matter, so all of these notebooks were about Charlie Trie. There might have been a smattering of other things interspersed, because we were sometimes pulled off to do other projects. However, 99 percent of the notebooks—pages in the notebooks dealt with Charlie Trie.

Chairman THOMPSON. when you turned this over to Agent Corpening for him to turn over to CAMPCON, right, at Justice?

Ms. PARKER. That is correct.

Chairman THOMPSON. Were each of the 200 pages pretty much full?

Ms. PARKER. With the exception of the last notebook. In fact, that is the one that I am using now. There is a portion of it that has not been used.

Chairman THOMPSON. All right. Did you have occasion to get those notebooks from CAMPCON?

Ms. PARKER. Yes, I did. Yes, sometime in August of this year.

Chairman THOMPSON. Were there any pages missing?

Ms. PARKER. Yes, there were.

Chairman THOMPSON. Describe that.

Ms. PARKER. There was a section of the notebook that was missing from the time frame of June 24 to approximately July 15 or July 17.

Chairman THOMPSON. Now, would that have been—chronologically, would that have been in your first, second or third notebook?

Ms. PARKER. The first notebook.

Chairman THOMPSON. The first notebook.

Ms. PARKER. Yes.

Chairman THOMPSON. What was the first entry in your first notebook, the date?

Ms. PARKER. It was in January. It was the first day that we actually had a major meeting at the task force concerning the investigation.

Chairman THOMPSON. January 1997?

Ms. PARKER. Correct.

Chairman THOMPSON. And so the first part was intact, from January to June was intact?

Ms. PARKER. Correct.

Chairman THOMPSON. And what you are saying is that missing were pages that covered June 24, which was the day you began your first trash cover, was it not?

Ms. PARKER. That is correct.

Chairman THOMPSON. Till July 15 or 17.

Ms. PARKER. I think that might have been the—I cannot recall now.

Chairman THOMPSON. Which would have covered the dispute or attempt to get the search warrant?

Ms. PARKER. That is correct.

Chairman THOMPSON. Now, these are spiral notebooks. Would someone have to rip those pages out in order for them to come out?

Ms. PARKER. Yes.

Chairman THOMPSON. Who did you receive the books back from?

Ms. PARKER. Special Agent C.S. Kim. He had been, at the end of the investigation, my co-case agent for the last segment of the investigation.

Chairman THOMPSON. When did you discover that these pages were missing?

Ms. PARKER. On August 13. It was a Friday.

Chairman THOMPSON. August 13 of what year?

Ms. PARKER. I am sorry, 1999.

Chairman THOMPSON. Of 1999?

Ms. PARKER. Yes.

Chairman THOMPSON. Did you ask anyone about this?

Ms. PARKER. I immediately began conducting my own little investigation because I was concerned that I would need to refresh my recollection for—in order to be able to testify here, so I wanted to get the original notes back, and I talked to Special Agent Kim and others at CAMPCON in order to try to determine where the notes were.

Chairman THOMPSON. So is it this time they tell you they do not know where they are?

Ms. PARKER. That is correct.

Chairman THOMPSON. So to make sure I understand this now, you were told to submit your notebooks so that they could submit them or consider submitting them to Congress pursuant to congressional subpoenas?

Ms. PARKER. That is correct.

Chairman THOMPSON. And that when you—and I can state for the record, I think, as they were submitted over on the House side, they did not contain those, I believe, 27 pages, so they apparently were removed from the time that they left your possession to the time that they got to the House Committee that had requested these records.

That is all I have. Go ahead.

Senator LIEBERMAN. Thanks, Mr. Chairman.

Thank you all for your testimony.

Let me begin by focusing in on the probable cause determination on the search warrant, based on what you found in the trash cover. And as I understand the position of the Department of Justice attorneys, Ms. Ingersoll, etc., prior to Mr. Taylor's arrival on the scene, their position is that the agents did not show probable cause. They thought that the affidavit, which you had drafted, Ms.

Parker, did not make that showing. And I want to just explore with you for a moment why you, and perhaps the others if you want to add to it, thought it did.

Let me suggest to you my understanding of what are two possible grounds on which an affidavit for a search warrant in this case might have been justified, and ask you to tell us on which of those grounds or on some other that I have not thought of, that you felt the affidavit was justified.

First would be if there was probable cause to believe that a substantive offense, for instance, a violation of the campaign finance laws was committed. Then the search of Ms. Mapili's and Mr. Trie's residences could be justified if there was probable cause to conclude that there was evidence of those offenses on the premises.

The second possibility is that the search could be justified if there was probable cause to believe that Ms. Mapili was committing obstruction, in which case the discarded documents would themselves be evidence of that crime.

So let me ask you which of those grounds, or perhaps both, or whether there was some other basis on which you believed at that moment after the trash cover had turned up the evidence it had, that there was a justification in your affidavit and that you had reached probable cause for the search?

Ms. PARKER. I believe that both myself and Jonathan Biran put in the affidavit that we were going to be searching based on both of those categories, conspiracy, 1001, false statements to the FEC, and also—well, conduit in the name of another, and also obstruction of justice.

Senator LIEBERMAN. Do any of the rest of you want to add to that? So far as you were involved, that was your understanding, Special Agent Sheridan?

Mr. SHERIDAN. That is my recollection as well.

Senator LIEBERMAN. Yes.

Mr. WEHR. That was my understanding, but only from oral conversations with the other agents. I did not see the affidavit.

Senator LIEBERMAN. Understood. Mr. Smith.

Mr. SMITH. I do not recall seeing the affidavit.

Senator LIEBERMAN. OK, good enough. Let me focus the next couple questions then on you, Special Agent Parker. Obviously, we are going to hear from the attorneys from Justice after this panel. But my understanding is that the attorneys have told our staffs that they did not believe the affidavit gave probable cause to believe that there was evidence of campaign finance violations at Mr. Trie's and Ms. Mapili's houses. What is your response to that?

Ms. PARKER. I really cannot recall having a specific conversation concerning that. In fact, once again, I did not have any personal conversations with Ms. Ingersoll concerning the probable cause at all. All of my conversations were with Jonathan Biran and Laura Laughlin. I only learned after the fact concerning Ms. Ingersoll's position, so I cannot really talk on that.

Senator LIEBERMAN. What I am really asking is sort of a hindsight kind of judgment. In other words, if what we are going to hear later on the second panel is that Justice did not believe that there was probable cause here to believe that there was evidence of campaign finance violations at these two locations, based on your

recollection of your affidavit, what is your response to their critique today?

Ms. PARKER. Without getting into 6(c) issues on disclosing grand jury information, it was my feeling that there was sufficient probable cause on that account. That was my belief. That is why I drafted the affidavit as I did.

Senator LIEBERMAN. Would it have been enough for the documents just to have been clearly related to Mr. Trie's business? That is, was there anything in the documents that was actually incriminating or was it enough for them to have just related it to his business activities?

Ms. PARKER. I am sorry. Could you say that again?

Senator LIEBERMAN. Well, I am wondering whether or not—I presume we may hear this later, so I want to give you a chance to respond before this panel goes off—whether it would have been enough to justify a search warrant, probable cause, to have found in the trash cover some evidence of Mr. Trie's business dealings, or whether that evidence itself would have been incriminating with regard to the campaign finance violations?

Ms. PARKER. I do not know that I could really speak on that. What I can say is that a subsequent search warrant on the Watergate office and residence was based on probable cause relating to the fact that there were fruits and instrumentalities of a crime at the location, and that that is why the location was searched. I would presume we could use the same standard for the Little Rock residence and office also.

Senator LIEBERMAN. How about the obstruction grounds? You based your affidavit on the two trash covers. The first was on June 24, which was before the service of the grand jury subpoena, and the second on July 1, after the service of that subpoena. Do you believe that the documents found prior to the service of the subpoena supported an obstruction charge?

Ms. PARKER. I believe they were some facts that tended to show obstruction. Once again, they were certainly documents that were evidentiary to our investigation. They possibly were evidence of obstruction of the Senate committee subpoena. However, I thought that it was prudent, and Ms. Ingersoll suggested this, to actually serve her with a subpoena, so that she would have the subpoena in hand. And we were hopeful that that would actually stem the flood of documents into the trash. Unhappily, it did not.

Senator LIEBERMAN. The dates are confusing here sometimes, but am I not right, from what you said earlier, that you were not specifically aware of the Senate subpoena at the time?

Ms. PARKER. I did not have a copy of the Senate subpoena——

Senator LIEBERMAN. You were aware of it.

Ms. PARKER [continuing]. But I was aware that there was a Senate subpoena, correct.

Senator LIEBERMAN. OK. I understand that the attorney suggested to our staff that it would have been—or maybe to you too or Mr. Biran may have suggested to you—that it would have—on the obstruction charge, it would have been better to elaborate in the affidavit precisely what it was about the July 1 documents that made them evidence of obstruction, that is, what was lost by not

having those documents. And that was one of the grounds for finding the affidavit inadequate. Do you have a response to that?

Ms. PARKER. I did not know that that was ever an issue.

Senator LIEBERMAN. Do you have a response today, based on——

Ms. PARKER. My response is as it was at the time, that I felt there was sufficient probable cause, and that the best course of action would have been to let the magistrate decide whether there was.

Senator LIEBERMAN. Yes. Mr. Smith, I know it is on the basis of some of these judgments that you had the—I believe you said it was unprecedented conversation with Director Freeh, or certainly a unique conversation, and then followed by the memo. I must admit—and I do not want to reach a conclusion till I get a chance to hear the Department of Justice attorneys—that in a matter of this kind where you have discovered the kind of evidence you did in the trash covers, though there are these legal questions that could be raised—it just seemed to me that with everything riding on this that the tendency of the Justice Department attorneys would have been to not stand in the way of going ahead with the search warrant, I mean to err on that side, as it were, but there are these questions that are raised. And I wonder if you have anything just from your long experience in response to that? I mean, there are some legal questions that could be raised here, but how did you evaluate it?

Mr. SMITH. Well, frequently we find—and I think in public corruption cases this is heightened—that there are those that investigate cases and prosecute cases to avoid getting into trouble, and you have those who investigate cases and prosecute cases to resolve issues. I am not sure why the timidity that I saw in this case was occurring, but based upon the evidence that I saw and that was being discussed to me, I agree. It seems to me that what you want to do on these type of cases—and realize public corruption cases have to be done quickly and they have to be done thoroughly and they have to be done completely objectively—is to err on the side of going ahead and as Agent Parker says, for God's sake, let the magistrate determine if there is sufficient probable cause or not.

Senator LIEBERMAN. Right.

Mr. SMITH. We do this all the time in other cases. Why this was being handled differently, frankly, I am not sure.

Senator LIEBERMAN. And you felt that a higher standard was being applied here than was generally applied to requests—in affidavits for——

Mr. SMITH. Absolutely, and I can understand that perhaps there was a heightened awareness of the implications of an investigation of this sort, after all, this was the President's home State and this involved a personal acquaintance of the President.

Senator LIEBERMAN. Right.

Mr. SMITH. But on the other hand, there should not be a different standard for a criminal investigation regardless of the implications, politically or personally or whatever.

Senator LIEBERMAN. Of course, another take on that might be that because of the heightened sensitivity and the particular personalities involved, one might lean a bit forward to exploring every possible piece of evidence, so that no one can ever raise a question

that this was not as aggressive an investigation as it might have been.

Mr. SMITH. You are absolutely right.

Senator LIEBERMAN. I mean, we obviously would not want to encourage anybody to trample over people's legal rights, but in that delicate balance in this case, because of the reasons you cite, that might have led to a more forward-leaning response on your affidavit.

Mr. SMITH. Absolutely. My view is that I would rather err on the side of being told by a magistrate that I have insufficient probable cause than being accused later on of foot dragging because of the political implications.

Senator LIEBERMAN. Yes. Let me go to the Senate subpoena now if I may. Agent Sheridan, let me begin, because I understood from my staff, that they came away from the interview with you believing that you thought that Ms. Ingersoll had indicated that she did not want to base the search warrant on Ms. Mapili's destroying documents responsive to the Senate subpoena because that would have required the task force to tell the Senate about the destroyed evidence. But this morning I got a different impression from something you said a moment ago.

Mr. SHERIDAN. No, that—maybe there was a misunderstanding there. All I said was there were some discussions when we—on that first trash cover in late June. At that point we did know there was a Senate subpoena.

Senator LIEBERMAN. Right.

Mr. SHERIDAN. And I remember there being some discussion that Laura Ingersoll was present at that meeting I was present at, as to the legality of what do we do in that instance? That is when I recall the decision being made that we will serve our own Federal grand jury subpoena on Ms. Mapili for records.

Senator LIEBERMAN. To the best of your recollection, at that meeting or any other occasion, what did Ms. Ingersoll specifically say about the Senate subpoena?

Mr. SHERIDAN. She only advised us that there was a subpoena, advised myself—well, I was there, I was present. That is all I recall, that there was a Senate subpoena. I have never seen a Senate subpoena to this day.

Senator LIEBERMAN. So to the best of your recollection, she did not say that she did not want to base the search warrant on Ms. Mapili's destroying documents responsive to the Senate subpoena?

Mr. SHERIDAN. That is correct.

Senator LIEBERMAN. Just to clarify for a moment, did any of the other of the three of you at the table, besides Agent Sheridan, have any personal conversations with Ms. Ingersoll or other task force attorneys about the Senate subpoena? I mean, obviously, this is of genuine concern to us.

Ms. PARKER. Only the conversation that I had previously relayed, which was July 29, and when Jonathan Biran and I talked again about possibly resurrecting the search warrant, and that is when I was told that there was slim to non-existent PC, and that we would not take into consideration the Presidential Legal Expense Trust issues or the possible violation of the Senate subpoena.

Now, I know that one of the issues, now that I am thinking about it, that actually came up was whether there would be obstruction, considering the Senate subpoena had been served in like March, and whether there would be an issue of continuing obstruction had she already made production to the Committee. I do remember that being an issue.

Senator LIEBERMAN. Agent Wehr, did you have direct conversations at any point with Ms. Ingersoll or any of the other task force attorneys about the Senate subpoena?

Mr. WEHR. No, not on the Senate subpoena, on other issues, yes.

Senator LIEBERMAN. Mr. Smith, in this memo of August 4, 1997 that you sent to Director Freeh,[1] I did want to—incidentally, I did want to ask you whether you ever received a response from Director Freeh to the memo?

Mr. SMITH. Not directly.

Senator LIEBERMAN. Did you get it from anybody else?

Mr. SMITH. I was told by someone—and frankly, I do not recall exactly who told me—that he had used the specific incidents that I outlined in my memo to discuss the matter with the Attorney General, which led to the bringing in of Chuck LaBella.

Senator LIEBERMAN. OK. I want to get back to this point about the Senate subpoena, because on page 4 of that memo of yours to Director Freeh you say—and I quote—"Further, while clearly within the parameters of the Senate committee subpoenas, she"—that's Ms. Ingersoll—"has, I'm told, indicated she does not intend to refer this information to the Senate, though it appears Mapili has withheld documents from the Senate committee."

So my question is: Where did you get that information?

Mr. SMITH. This would have been relayed to me by one of the agents here.

Senator LIEBERMAN. Do any of you remember relaying that information?

Mr. SHERIDAN. Could you repeat that, sir?

Senator LIEBERMAN. Well, Mr. Smith says in the memo to Director Freeh, "Further, while clearly within the parameters of Senate committee subpoenas, she has, I'm told, indicated she does not intend to refer this information to the Senate, though it appears Mapili has withheld documents from the Senate committee."

Might you have said something to Mr. Smith that led him to reach that conclusion?

Mr. SHERIDAN. I do not recall that specifically. My only conversation in that time period with Mr. Smith was on July 2, at some point after the search and subsequent car stop were terminated, and advised him of the issues in Washington, DC and why we did not have probable cause and whatnot, but nothing, I do not think, that——

Senator LIEBERMAN. Agent Wehr.

Mr. WEHR. Yes, I had discussions with Mr. Smith regarding the Senate subpoena. In fact, I had seen a copy of it before July 2. And I came into possession of that subpoena. I had requested, for a long period of time during the investigation, a subpoena for—I believe it is called the Economic Development Authority for the State of

[1] The Memo referred to appears in the Appendix on page 105.

Arkansas—and the Senate had already subpoenaed that State agency before I had, and they had a copy of that Senate subpoena in those records when we subpoenaed them. So I actually had a copy of the Senate subpoena, and I was under the impression at the time, or I concluded, based on what I had seen from the trash covers, that the documents recovered from the trash were responsive to that subpoena.

Senator LIEBERMAN. But you had never talked to Ms. Ingersoll about what her motivations were regarding the subpoena, the Senate subpoena?

Mr. WEHR. No, sir, I did not.

Senator LIEBERMAN. Had you talked to any of the other agents about that?

Mr. WEHR. Well, I knew that they had had discussions with Laura Ingersoll, but I did not know the exact nature of those discussions. I knew the topics that were discussed and the outcome.

Senator LIEBERMAN. Might it be possible, Agent Wehr, that you had told Mr. Smith that Ms. Ingersoll made this statement about not telling the Senate? Because this is——

Mr. WEHR. No.

Senator LIEBERMAN. This is personal, because we were involved in this, and we are very troubled about the implications for our subpoena, and Mr. Smith's statement is—though he makes clear that this is not based on—I mean, you used the word, "I am told."

Mr. SMITH. Yes.

Senator LIEBERMAN. You did not say that you had heard that directly. I want to try to trace back what the source of that statement in Mr. Smith's memo was.

Mr. WEHR. There were extensive discussions between Mr. Smith, myself and Roberta Parker regarding these issues, but I do not recall telling Mr. Smith or even receiving information about Laura Ingersoll's opinion on—I take that back. I did receive information from, I believe, Roberta Parker, about the outcome, in other words, Laura Ingersoll's opinion about the Senate subpoena.

Senator LIEBERMAN. Agent Parker, let me just come back to you and give you another opportunity. Is it possible that something that you had said either to Agent Wehr or Mr. Smith might have led to this statement that Mr. Smith makes, that Laura Ingersoll, he is told, indicated she does not intend to refer this information to the Senate, though it appears Ms. Mapili has withheld documents to the Senate committee?

Ms. PARKER. I have no idea. I know I did not state that. I will say that there was a memo that was actually a FBI memo, talking about that if the Senate investigators call in for information, to talk to any of the agents, that because of grand jury considerations and because of the secrecy of an ongoing criminal proceeding, that we were not able to say anything to them. I know that that electronic communication actually did go out to Little Rock and it was also in our office. So I do not know exactly. Maybe that was a melding of issues.

Senator LIEBERMAN. OK. I am left a bit uncertain then about the basis of the statement in the memo, which, again, as I say——

Chairman THOMPSON. So not only, as I take it, was the Department of Justice not going to allow the FBI to do anything about

the obstruction of documents that we subpoenaed, but they were going to be prohibited from telling us of the fact that our documents were being destroyed, according to that memo?

Senator LIEBERMAN. Yes, that is the question. I mean, that is very serious, and the question was, what was the basis of that conclusion?

Ms. PARKER. Well, let me say in rebuttal to that, that once we executed the search warrant on October 23 and had indeed determined that she was obstructing the Senate subpoena, the House subpoena, and also our grand jury subpoena, that Department of Justice made the determination at that particular point in time to turn over all of the documents to you, so you all could——

Senator LIEBERMAN. Right.

Chairman THOMPSON. It was only 4 months late, yes.

Mr. SMITH. Senator, I do not recall exactly the basis—I mean who told me, but at that particular time I was in virtually daily contact with Mr. Lampinski, with Laura Laughlin, and certainly with Agent Wehr, so I wish I could tell you exactly who relayed this information to me.

Senator LIEBERMAN. That is important, that it may have come from Mr. Lampinski or Ms. Laughlin, both of whom were FBI personnel assigned to the task force; am I right?

Mr. SMITH. That is right. They were the managers at the task force, and I was in virtually daily contact with them during this intense time.

Senator LIEBERMAN. Yes. Let me just mention again, consistent with what I did a little bit earlier on the subpoena question, based on what Ms. Ingersoll has said to our staff—obviously, she denies the suggestion in the memo—well, she says first she cannot imagine having said that, and then that she does not recall even knowing about the Senate subpoena until later in July, and that when she was aware of the destruction of the Senate subpoenaed evidence in the Georgie Kronenberg case, which is another related matter, she told our Committee staff about it.

I wanted to mention that in summary, and ask any of you whether you have any response to that?

Mr. WEHR. Could you repeat the question, please?

Senator LIEBERMAN. Well, the question basically is just to try to summarize what I gather was Ms. Ingersoll's testimony to our staff, about this whole question of withholding information from the Senate. And she says she cannot imagine ever having said that, which is what—that is what is in Mr. Smith's memo—that she does not even recall knowing about the Senate subpoena until later in July, and then she cites this other example of destruction of Senate subpoenaed evidence in another related case, not this one, the Kronenberg case, and she says in that case she told our Committee staff immediately about it. So that is going to be, I gather, her response, and I was just wondering whether any of you would like to respond to that before you leave the stand?

Mr. SMITH. Well, I can assure you that I was well aware of the potential firestorm that would occur after I wrote my memo because it was being very critical of the Department, and I wrote that memorandum very carefully to make sure that it was absolutely

correct. This was not something that I pulled from the air just to raise the ante on my memorandum.

Senator LIEBERMAN. Agent Sheridan.

Mr. SHERIDAN. I was aware, as I stated previously, after the first trash cover that there was a Senate subpoena. I was advised of that by Laura Ingersoll. And that was the basis for——

Senator LIEBERMAN. What date might that have been?

Ms. PARKER. June 24 was the first trash cover.

Senator LIEBERMAN. So, if my staff heard Ms. Ingersoll's testimony or response to her in which they believe she said that she didn't know about the Senate subpoena until later in July, then your recollection is that you had an earlier conversation with her about it?

Mr. SHERIDAN. Yes, sir. That would be my only way of knowing that that subpoena was served. My involvement, as I stated before, after July 2 became minimal regarding the Trie task force. I knew about it prior and that was the basis in my recollection as to why we served a grand jury subpoena on Ms. Mapili.

There was a concession, as I understood it, that we didn't need to serve a grand jury subpoena to conduct a search of those residences in Little Rock. But we felt we had to do that at the time that went forward and then we waited until the subsequent trash cover where, again, we found documentation for——

Chairman THOMPSON. Excuse me. Is what you are saying that because you knew that this Committee had served a subpoena, it became part of your thinking that you would serve a subpoena for information too?

Mr. SHERIDAN. Not my thinking. We wanted to conduct searches of those residences in late June.

Chairman THOMPSON. But they wouldn't let you do that.

Mr. SHERIDAN. That is correct.

Chairman THOMPSON. So, your fall-back was a subpoena, right?

Mr. SHERIDAN. That was the impression, as I understood it.

Chairman THOMPSON. Did I understand you to say that in deciding what to do about the subpoena part of your thinking was based on the fact that this Committee had already subpoenaed those documents or similar documents, is that what you said? If that is not what you said, then I don't want to put words in your mouth.

Mr. SHERIDAN. No. As I stated previously, that there were some legal issues that were floating around as to if we can—we know that we have a trash cover. We have documents that are being destroyed. We know that the Senate has a subpoena. Do we have to report that? I don't know the answer to that, I didn't know it then.

Chairman THOMPSON. All right. Well, I think that answers my question.

Excuse me, Senator.

Senator LIEBERMAN. No. That is fine.

Let me just go now briefly to the disappearing notes which obviously is troubling and, again, that you didn't discover Ms. Parker's notes, those, until a little more than a month ago?

Ms. PARKER. That is correct.

Senator LIEBERMAN. And you had—I am just trying to find the trail here—you indicated today that you had given these notebooks to Special Agent Corpening——

Ms. PARKER. Correct.

Senator LIEBERMAN [continuing]. Who was an FBI agent working with the task force?

Ms. PARKER. Right. He's a supervisor there.

Senator LIEBERMAN. And then you received them back from—I am sorry, I forgot the name.

Ms. PARKER. Certainly. C.S. Kim.

Senator LIEBERMAN. C.S. Kim, another Special Agent of the FBI.

Ms. PARKER. Correct.

Senator LIEBERMAN. After how long a period of time did you receive them back?

Ms. PARKER. I provided those sometime in June, mid-June, 1999, to Special Agent Corpening and then I received the first section of my notes back in early August. I advised C.S. Kim that there were still additional notes that I had turned over to Supervisor Corpening, and that is when he, the next day, brought me the rest of all the notes and the documents and records that I had provided.

Senator LIEBERMAN. So, they were with the task force for a couple of months?

Ms. PARKER. That is correct.

Senator LIEBERMAN. Do you have a recollection—I am sorry if I missed this question from the Chairman—that the three notebooks were in tact when you turned them over to Special Agent Corpening? In other words, that all of the material was in there?

Ms. PARKER. Yes, it was.

Senator LIEBERMAN. You do?

Ms. PARKER. Yes.

Senator LIEBERMAN. Because you went over them?

Ms. PARKER. I was the FBI witness at the Charlie Trie trial in Little Rock——

Senator LIEBERMAN. And when was that, just for the record?

Ms. PARKER [continuing]. Which was May 17——

Senator LIEBERMAN. Of this year?

Ms. PARKER. Of 1999. Correct.

Senator LIEBERMAN. Right.

Ms. PARKER. And for 2 months prior to that, I reviewed all of my notes, a variety of memos, communications in order to prepare for that trial.

Senator LIEBERMAN. Right.

Ms. PARKER. I prepared a chronology on the obstruction of justice so that I could refer to it to prepare for the trial. And what I did was I utilized my notes and other documents in order to prepare that chronology.

So, for example, the conversations that I had with Special Agent Wehr concerning the trash covers, I put in the date of the trash covers, what my conversations were, the date of when we attempted to serve subpoenas on people, etc.

The day that we had conversations concerning the probable cause, etc.

Senator LIEBERMAN. Well, that is very—oh, I am sorry.

Ms. PARKER. Oh, yes. And what I did was I wanted to make sure that I had everything in that chronology to prepare for trial.

Senator LIEBERMAN. OK. I would say that is very important because we are talking about notes that were taken about 2 years earlier.

Ms. PARKER. That is correct.

Senator LIEBERMAN. So, you knew certainly, at least at the middle of May of this year, that the notes that were not there in August were there in your notebook?

Ms. PARKER. That is correct.

Senator LIEBERMAN. Do you know at all what the—I mean once you—I presumed you asked about this after you found these notes were gone and you got the books back in August—do you have any sense of what the trail of possession of the notebooks was between the time that you gave them to Agent Corpening and got them back from Agent Kim?

Ms. PARKER. I tried to determine that and I will say as an aside that there is an internal investigation going on now into where the notes are.

Senator LIEBERMAN. Right.

Ms. PARKER. But, I, myself, attempted to locate them and I asked Special Agent Corpening. He advised that he brought them down to his office and put them in his office. He was on vacation for, I guess, a Friday; was gone for the weekend; attempted to review the notes the following week and he advised that the notes for that particular period of time were not in the notebook when he went to review the notes.

Senator LIEBERMAN. And that would have been?

Ms. PARKER. Once again, he didn't really have specific dates. Sometime mid-June, mid-to-late-June.

Senator LIEBERMAN. Is it fair to say that the notebooks were at some point in the possession of the Department of Justice personnel on the task force or were they——

Ms. PARKER. I have no knowledge of that.

Senator LIEBERMAN. You don't know that.

Ms. PARKER. I have no knowledge.

Senator LIEBERMAN. And who is conducting the internal investigation of this matter?

Ms. PARKER. Our office of OPR—Office of Professional Responsibility.

Senator LIEBERMAN. OK. Thank you.

I guess a final question really—and, in some sense just for the record, none of you have made this allegation, although, Mr. Smith, you and I talked about the sort of political overlay to this—but there may be some who feel that decisions were made on some of these matters in the Department of Justice for political reasons.

And I just wanted to ask you, each of you, just go down the table, whether there was ever in your dealings with personnel at the Justice Department whether you have any evidence to present or whether anything was ever said by anybody at Justice to lead you to the conclusion that some of the judgments made here, on the application for the search warrant, etc., were based on political considerations, because this matter, obviously, concerned the President of the United States and other members of the administration?

Mr. SMITH. None.

Senator LIEBERMAN. Agent Wehr.

Mr. WEHR. Well, I had discussions with Laura Laughlin at the campaign finance task force headquarters during the course of one of our joint meetings and I believe it was in May 1997, and I was concerned about the appearance of, based on information that had been presented, people were exchanging evidence, there was reason to believe that solicitations were made for campaign funds in the White House in the presence of the President and these were made to foreign contributors. And to me, that appeared to be a violation of several laws.

And I was told by Laura Laughlin that we would not pursue any matter relating to the solicitation or payment of funds for access to the Presidency.

Senator LIEBERMAN. Were reasons given?

Mr. WEHR. The reason given to me was that that is the way the American political process works and I was scandalized by that answer.

Senator LIEBERMAN. Well, so were a lot of us. I think, Mr. Chairman, we may want to speak to——

Mr. WEHR. I am sorry, not Laura Laughlin, it is Laura Ingersoll. I misspoke. Laura Ingersoll.

Senator LIEBERMAN. OK.

Well, we will ask Ms. Ingersoll her recollection of that conversation and, obviously, her reasons for stating it, whether they were legal or whether they were political.

Do you have anything else you want to add to that?

Mr. WEHR. No.

Senator LIEBERMAN. Thank you.

Agent Sheridan.

Mr. SHERIDAN. Yes, sir. I felt we had many stumbling blocks in this investigation while I was there, but I have no evidence at this time to believe that there was anything politically motivated, just frustrations in the investigation that we have already talked about.

Senator LIEBERMAN. Thank you.

Agent Parker.

Ms. PARKER. I would concur with what Special Agent Sheridan just said. And also say that the stumbling blocks were not only during Ms. Ingersoll's time at CAMPCON, but actually extended past that particular point in time.

However, I have no indication, on one ever mentioned anything to me that we are not pursuing these issues because there was a political agenda.

Senator LIEBERMAN. Thank you. Thank you all for your cooperation. Thanks, Mr. Chairman.

Chairman THOMPSON. Thank you. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

First, I want to thank our witnesses for your very straightforward and frank answers to the questions that we have asked. This administration has a pattern of retaliating against civil servants who cooperate with congressional investigators. I am thinking of Mr. LaBella, and I am thinking of whistleblowers at the Department of Energy. And I think it is very important, Mr. Chairman, that this Committee send a very strong, unmistakable signal to the Department of Justice and to the Attorney General that we will absolutely not tolerate any sort of retribution or retaliation against

the witnesses who have come before us and answered our questions so very frankly today.

And I think that is——

Chairman THOMPSON. Absolutely.

Senator COLLINS [continuing]. Very important for us to get on the record.

Mr. Smith, you have been with the FBI for 25 years. In fact, all of you have had long careers in law enforcement; two of you are attorneys. In your experience, Mr. Smith, were the kinds of obstacles, second-guessing, increased scrutiny, the level of review of every decision that you were making in this investigation unusual?

Mr. SMITH. Highly unusual.

Senator COLLINS. In fact, is it unusual for the Justice Department to review your requests to interview a witness or to issue a search warrant? Is it unusual for them to deny those kinds of requests?

Mr. SMITH. Well, a lot of the search warrant requests certainly have to receive the departmental review and this is fine. The micro-managing of the investigation of the cases, themselves, as I indicated is something of a kind of a trend that I see that is occurring that is unhealthy.

There are very well defined roles for prosecutors to play. Determining if there is probable cause, for example. But the course of an investigation and particularly when it has the results of impeding investigative initiatives—a lot of times when you are conducting an investigation, the timeliness of it, and the rhythm that one has to get into, is very critical to a successful investigation.

This micro-managing of who could be interviewed and what they could be interviewed for and things like this was highly unusual and it is detrimental to resolving the matter.

Senator COLLINS. And it did, in fact, impede your ability to gather the evidence that you needed?

Mr. SMITH. Well, there is no doubt in my mind. A good example was an individual that we felt could be interviewed involving principals of this investigation. I think we made a request and somewhere around April 1997 and then 3 months later the request still had not been approved.

But, as I recall, someone from the—an agent assigned to the Senate investigation had run through that and several other interviews, that we were waiting for approval to occur.

Senator COLLINS. Was that Keshi Zhan? Is that the person to whom you are referring?

Mr. SMITH. I don't think so.

Senator COLLINS. It is my understanding that that was another example of where the Department of Justice refused permission and this witness disappeared the next day. Is that correct?

Mr. SMITH. I am familiar with that but this was not the one that I am referring to.

Senator COLLINS. OK.

Ms. Parker, I don't know whether you are familiar with an E-mail that Laura Ingersoll sent to other Department of Justice attorneys about the whole issue of the Department refusing to approve the issuance of the search warrant. But let me read you a key sentence from it.

Ms. Ingersoll says, the Bureau was very, very keen on doing these searches but in the end after much discussion the case agent and Ms. Laughlin conceded that there was no PC, probable cause, for either.

Is that a correct assessment of what occurred?

Ms. PARKER. I certainly never took the position that there was no probable cause. I have always felt that, I continued to feel that up to the day that we did, indeed, execute the search warrant on Mr. Trie's residence.

Senator COLLINS. And you were the case agent to whom this E-mail refers?

Ms. PARKER. Actually I believe she may have been referring to Special Agent Sheridan since he was in that meeting with her and Laura Laughlin.

Senator COLLINS. Mr. Sheridan, did your mind get changed by this meeting or did you still believe there was probable cause?

Mr. SHERIDAN. I believed and still believe that there was probable cause.

Senator COLLINS. Mr. Wehr, did you still believe that there was probable cause or was your mind changed in any way?

Mr. WEHR. My mind was never changed and I did believe and believe today that there was probable cause for a search.

Senator COLLINS. Mr. Smith, is that your opinion as well, that there was probable cause?

Mr. SMITH. Yes. But I would qualify that they noting that I didn't have the intimate knowledge of what was going to be contained in the affidavit.

Senator COLLINS. You were less involved in this stage.

It concerns me very much to have this E-mail where Laura Ingersoll is saying that the FBI agents who were intimately involved essentially folded when, in fact, all of you are telling us that you still thought that there was probable cause. And that is something we intend to ask her about.

In the E-mail Laura Ingersoll goes on to say, that we, attorneys, were as keen as the agents to make it happen but the evidence simply wasn't there.

Mr. Wehr, wasn't the evidence there as a result of the trash covers, the shredded documents that you were finding?

Mr. WEHR. I believe there was evidence there and substantial evidence. It turned out that belief was true.

Senator COLLINS. And, indeed, you sought permission to stop what appeared to be the removal of boxes from Mr. Trie's—I am uncertain whether it was his residence or his house—because of your concern that further evidence was being moved or destroyed; is that correct?

Mr. WEHR. That is correct.

Senator COLLINS. And was that part of your basis for believing that there was probable cause to go forward with the search warrant?

Mr. WEHR. Well, I believe probable cause existed before that incident. So, I don't know that that had an effect or not.

Senator COLLINS. So, if anything, that would have reinforced your belief that we needed to have the——

Mr. WEHR. Oh, yes. We observed evidence—well, we observed boxes being taken out of the residence.

Senator COLLINS. Did Laura Ingersoll ever express to any of you concern that you were losing valuable evidence, that evidence was being destroyed. that evidence was being removed that might impede the investigation that you were undertaking or the investigation of this Committee? Did she ever, when you went to her with this evidence, when you asked for the search warrant to be issued, did she ever indicate any sense of urgency or any concern about a loss of key evidence, Ms. Parker?

Ms. PARKER. At the one point in time where she indicated that we should serve a grand jury subpoena on Maria Mapili, there was an indication that she was concerned about the loss of evidence. That was my only recollection concerning that.

Senator COLLINS. But with regard to the issuance of the search warrants, even though you brought this information, she did not express any concern about that?

Ms. PARKER. Not that I recall.

Senator COLLINS. Mr. Sheridan, is that your memory, as well?

Mr. SHERIDAN. I really have no recollection of that either way.

Senator COLLINS. Mr. Wehr.

Mr. WEHR. I was not privy to any conversations like that.

Senator COLLINS. Mr. Smith, I think you were not involved in this part.

Mr. SMITH. I was not involved.

Senator COLLINS. Mr. Wehr—or I am not certain who the appropriate person to answer this question is, so, if it is someone else, please, speak up. Was the search warrant eventually issued?

Ms. PARKER. Yes.

Senator COLLINS. And did that happen after Mr. LaBella replaced Ms. Ingersoll as the head of the task force?

Ms. PARKER. Yes. It occurred October 23, 1997.

Senator COLLINS. I must say, Mr. Chairman, that I think it is hard to imagine a set of facts that cried out more for the appointment of a special prosecutor or an independent counsel to work with these agents than these facts.

Ms. Parker, you have never gotten your 27 pages of missing notes back; is that correct? I just want to be clear on that.

Ms. PARKER. That is correct. They are still looking for them.

Senator COLLINS. And this Committee, I believe, Mr. Chairman, has never received the 27 pages of notes?

Chairman THOMPSON. That is correct.

Senator COLLINS. As well as we already have on the record that the House committee did not, as well.

Now, these were in a spiral notebook such as the one you have before us. So, it is difficult for me to understand how these key pages were accidentally removed. In fact, I must say, the 27 missing pages brings to mind another infamous deletion and that is the 18-minute gap of the tapes during Watergate. Can you think of any way that just those pages could have fallen out? Were they loose when you gave them to the Department of Justice, or were they bound in the spiral just the way the rest of the notebook was?

Ms. PARKER. No. They were actually bound in the spiral notebook. I have no idea. There is no way that they could have fallen

out. The only thing that I could think of was possibly somebody was going to copy them and stuffed them in a desk drawer but I really don't have any knowledge whatsoever.

Senator COLLINS. When your notebooks were returned to you, were there any other pages that were removed or just this one section?

Ms. PARKER. It appears that it is just the one section.

Senator COLLINS. I must say, Mr. Chairman, that that really raises very grave concerns in my mind about whether or not someone at the Department of Justice was trying to withhold information that was very critical to this Committee and to the House committee investigation.

Again, I want to thank you very much for your cooperation with the Committee and we will be pursuing these issues.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

First, Mr. Smith, I have some questions of you about the memo that you wrote to Mr. Freeh.

Mr. SMITH. Yes, sir.

Senator LEVIN. Dated August 4, 1997.

Mr. SMITH. Yes, sir.

Senator LEVIN. You set forth many of the problems that you had with the Department of Justice treatment of the material which was provided to them. You set forth a number of conversations in this memo to Lou Freeh that you had had with Ms. Ingersoll. You talked about the trash covers that produced relevant documents and that Special Agent Parker renewed her efforts to get a search warrant approved by Ms. Ingersoll which were ongoing, that Ms. Ingersoll demanded probable cause to convict before approving a search warrant.

You described in great detail the increasing amount of frustration by the working street agents that were engaged in this matter. Quoting the best I can from this memo, it is about a five-page memo.

Did you ever talk to Mr. Freeh after you wrote him this memo and ask him whether or not he pursued this with the Department of Justice?

Mr. SMITH. I think I testified before you came in, Senator, that I was told—and frankly I don't recall who told me—that he had used this memorandum in part because it had very specific examples that he could relate to the Attorney General that led to the bringing in of Mr. LaBella.

Let me correct one thing, if I may, Senator.

Senator LEVIN. Sure.

Mr. SMITH. I was not having direct conversations with Ms. Ingersoll. The information was being relayed to me by some of the agents that are here.

Senator LEVIN. I see. But the memo does say that Department of Justice attorney Laura Ingersoll withdrew her approval. You make that reference.

Mr. SMITH. Yes.

Senator LEVIN. And you are pointing out you have problems with what was going on. I mean this is five pages of problems to the Di-

rector of the Federal Bureau of Investigation. Now, my question to you is, do you know whether or not he pressed the Department—other than what you said relative to that this may have been involved in a conversation relative to a change? Do you know whether these specific complaints were brought to the attention of the Department of Justice by Mr. Freeh so that he could correct these?

Mr. SMITH. Yes. I have no personal knowledge and, like I say, it was only because of a conversation that someone related to me and in all candor I had only received the same redacted copy, that I am assuming you have, yesterday afternoon.

I did note that there is a note in the margin there and it says, "To B.E. Bryant" and I am assuming he means Bob Bryant, the current deputy director, and to Larry Parkinson, "L. Parkinson", please discuss and take steps to address immediately. Let me know if I need to get involved. And his initials.

So, he at least acted on it in that manner. I can't speak for what he said to the Attorney General or anything like that.

Senator LEVIN. All right.

Mr. Chairman, I would hope that we, if we haven't already, would ask Director Freeh to tell us what action he took, if any, following the receipt of this document. I think it would help to complete the record if the Committee would be willing to ask the FBI Director that question, because this is a very detailed memo that was sent to the Director. And I think it is important that we find out what action, if any, the FBI took when it received this kind of a document from its agents.

So, I am not asking you that; I am asking our Chairman this.

Chairman THOMPSON. I think we will take that under consideration, certainly.

Senator LEVIN. All right.

Chairman THOMPSON. I think there will be a lot of other witnesses we are going to want to talk to before this is over.

Mr. SMITH. Senator Levin, when I talked to the Director after I had placed a call to him one afternoon and we talked the next morning, he expressed obvious concern about what was occurring. And, in particular, that part because of the frustration that I saw dealing with the Special Agents because he has a great affinity for the welfare of the Special Agents. And that was why he asked me if I would put this on a memorandum to his personal attention.

Senator LEVIN. In your memorandum, you recommended to Mr. Freeh, "I would recommend that you meet specifically with investigators who I suspect are prepared to provide details that provide the basis that they have for the lack of confidence and the public integrity's handling of this investigation."

That is on the final page.

Mr. SMITH. Yes, sir.

Senator LEVIN. Did he meet with the investigators, as you recommended?

Mr. SMITH. I don't recall if he did or not.

Senator LEVIN. Would you know if he did?

Wouldn't you have gotten word if he had?

Mr. SMITH. I would have probably gotten word through the investigators.

Senator LEVIN. Did you receive such word?

Mr. SMITH. I don't recall receiving that word and I am—perhaps they may be in a position to tell you if he did meet with them.

Senator LEVIN. All right.

Anybody here know whether he or she met with any of the investigators as recommended by Mr. Smith?

Ms. PARKER. He never met with me or, to the best of my knowledge, anyone on this panel.

Mr. SHERIDAN. That is correct.

Mr. WEHR. I did not meet the Director on this issue.

Senator LEVIN. All right.

Now, after you made the recommendation to Mr. Freeh which he didn't follow, we have another paragraph here, which is that "I am well aware of such matters as prosecutive discretion."

Mr. SMITH. Yes, sir.

Senator LEVIN. "But I am convinced that the team at the Department of Justice leading this investigation is, at best, simply not up to the task. Frankly," and this is what I am interested in asking you about, "I base this conclusion not only on the CAMPCON matter but other investigations Public Integrity has handled from their office due to recusals from the U.S. Attorneys. The impression left is the emphasis on how not to prosecute matters, not how to aggressively conduct investigations leading to prosecutions."

Mr. SMITH. Yes, sir.

Senator LEVIN. So, that before this particular set of events, which we are describing and looking into, you had your own beliefs that the Department of Justice Public Integrity Section has not acted aggressively; is that fair?

Mr. SMITH. And that would be based on specific examples, yes, sir.

Senator LEVIN. Previous examples to these events?

Mr. SMITH. Yes, sir.

Senator LEVIN. How many such examples were there in your experience? Were there a couple, two, three, four, or five?

Mr. SMITH. I would suspect somewhere around that number, the latter.

Yes, I would leave it at that at this time.

Senator LEVIN. So, four or five examples? Give us an estimate. I am not trying to pin down a number precisely.

Mr. SMITH. I don't recall exactly how many cases that the Department was handling because the U.S. Attorney's tendency was to recuse virtually anything.

So, consequently—and this hampers investigations because you have investigators that aren't in a position to deal directly with the potential prosecutors and things of this nature. So, consequently, we were referring stuff through the Department, it would have to go through FBI headquarters and then they would pass it over to the Department and the lines of communication were seldom direct as you would expect in a normal prosecution.

And, so, I recall a couple of investigations that this was occurring where I thought that the Department seemed to be looking for ways not to investigate the matter as opposed to pursuing it aggressively.

Senator LEVIN. On this memo one of the questions at the top line says, "precedence" and then it says, "routine."

Mr. SMITH. Yes, sir.

Senator LEVIN. Was this routine in your judgment?

Mr. SMITH. No. This is electronically communicated to the Director's office immediately and so this is not like it was thrown in third class postage and forwarded up there.

Senator LEVIN. In your interview with the Committee staff, you indicated that you also had a lack of confidence in Neil Gallagher. Could you tell us what that was based on?

Mr. SMITH. Good examples of where, there again, in these public corruption type of investigations I thought he—as I indicated there, again, perhaps before you came in, there are those who investigate to resolve issues and then there are those who investigate to avoid getting in trouble.

And I was of the opinion that he fell in the latter category as related to these. And there, again, I have specific examples of that.

Now, I thought another thing, frankly, is that one of the things that I thought was good when Jim DiSarno came in to take over the investigation if, for no other reason, he had direct access to the newly named deputy director Bob Bryant, where I was of the impression that a lot of the information that was going up to the director and perhaps the deputy director—I think Weldon Kennedy was there some of the time—was being filtered. And because I would say the tendency I thought of Mr. Gallagher—and he and I are Bureau classmates—was to be very, very conservative and I base that on other incidents in this area, not only this case.

Senator LEVIN. Now, was he your superior?

Mr. SMITH. Well, I guess on a—I wouldn't view that that way because I——

Senator LEVIN. Mr. Gallagher was not your superior?

Mr. SMITH. Well, as a Special Agent in Charge we view ourselves as working more so for the Director not as opposed to the deputy assistant director, though he was in charge of public corruption matters in the criminal division at headquarters.

Senator LEVIN. Right.

And did you also have a problem with Jeff Lampinski?

Mr. SMITH. Well, Mr. Lampinski was Mr. Gallagher's boy. Mr. Gallagher had appointed him into that position because of a previous relationship in a field office. I think Mr. Lampinski had worked for him or something like that as well and I thought it was really unfair to Mr. Lampinski, who as a young fellow who wanted to have a career ahead of him, to put him in this catbird seat.

Senator LEVIN. Agent Sheridan, let me ask you a couple of questions. You were working in Washington with Special Agent Parker, I believe; is that correct, the two of you?

Mr. SHERIDAN. I was assigned to the Washington Field Office, but Agent Parker was assigned to Baltimore.

Senator LEVIN. Was assigned where?

Mr. SHERIDAN. Baltimore.

Ms. PARKER. The Baltimore division.

Senator LEVIN. Apparently you told our staff that you were never told not to follow leads, is that correct?

Mr. SHERIDAN. That is correct.

Senator LEVIN. And that sometimes Mr. Wehr might initiate some steps on his own but that that was not for him to do, it was

for you and Agent Parker to be initiating the leads and for him to follow them up, is that correct?

Mr. SHERIDAN. That is not the way I said it but Agent——

Senator LEVIN. Well, what was the relationship?

Mr. SHERIDAN. Agent Wehr, as I was told when we started, was going to handle the Little Rock leads for us. We were working the CAMPCON investigation, specifically the Trie case, out of Washington, DC. In the beginning Agent Wehr, along with other agents in Little Rock, did extensive background work relating to Charlie Trie and his businesses and other aspects and we would call him or assign leads to him. That is the way we were, it was established as a matter of organization.

At some point, in possibly March 1997, Agent Wehr was becoming aware of the Trie investigation but we, myself, Agent Parker, were also—we were very intimate with the Trie investigation in all facets, not just Little Rock. So, the reference where you say Agent Wehr was to only conduct leads that we directed him to do, there was a point where we did want to slow down one aspect of the case. We were working the President's Legal Expense Trust, initially. We didn't focus primarily on Charlie Trie in Little Rock.

Senator LEVIN. Well, let me just maybe ask it this way, then. You were never told, however, not to follow leads, is that correct?

Mr. SHERIDAN. Yes, that is correct.

Senator LEVIN. OK. Let me ask Agent Parker a question.

In that July 2 meeting where Ms. Ingersoll did not agree that there was probable cause for a search warrant, did your supervisor agree or disagree with Laura Ingersoll? And I understand your supervisor, correct me if I am wrong, was Laura Laughlin, is that correct?

Ms. PARKER. That is correct. I actually was not in that July 2 meeting.

Senator LEVIN. I see.

Ms. PARKER. It was actually Special Agent Sheridan. I was actually winging my way to Little Rock.

Senator LEVIN. I see.

Do you know whether she did agree with Laura Ingersoll?

Ms. PARKER. I can say that upon my arrival in Little Rock I picked up Jonathan Biran from the airport and he and I discussed the fact the search warrant was off. That was when I learned that it had been called off and that Ms. Ingersoll said that it was Maria Mapili had retained W.H. Taylor as counsel. And that W.H. Taylor was going to make production of the grand jury records, records to the grand jury.

Later in that day in Little Rock, Laura Laughlin actually flew out to Little Rock and I had an extensive conversation with her concerning the search warrant being called off. And she actually agreed with me that there was probable cause for the two search warrants, however, she felt that, once again, the prosecutor has the ultimate call in that matter. However, she and I did discuss the fact that there was probable cause for the search warrants.

Senator LEVIN. And when she said that the prosecutor had the ultimate call in that matter, is it not also true that if she disagreed with the prosecutor that she could appeal that up the chain?

Ms. PARKER. That is correct. I don't know whether she did or not.

Senator LEVIN. Finally, apparently Laura Ingersoll reached the conclusion that the PLET issues were not subject to criminal statutes, is that correct?

Ms. PARKER. That is correct.

Senator LEVIN. And did you agree with that analysis?

Ms. PARKER. Yes, I did agree with that analysis.

However, I thought that we could use evidence of Charlie Trie's attempt to use conduits in the PLET matter as 404(b) evidence at trial, to show a pattern of his conduct. However, at no point in time did anybody show me a legal statute that would have covered the Presidential Legal Expense Trust violations.

Senator LEVIN. Was the Department of Justice, by the way, as involved in the investigation under Mr. LaBella as it was under Ms. Ingersoll?

Ms. PARKER. Yes, it was.

Senator LEVIN. Thank you. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Is it not true that after Ms. Mapili's attorney turned over to you documents pursuant to the grand jury subpoena, that you continued to get documents out of the trash cover indicating that full compliance had not been had?

Ms. PARKER. Actually, we had two, I guess, three subsequent trash covers. However, I have to admit that the number of records diminished. So, I would say that we really didn't get any, too many further things out of those latter trash covers except possibly the PLET checks.

Chairman THOMPSON. So, before June 29, compliance had supposedly been made by Mr. Taylor, right?

Ms. PARKER. Yes. It was made on July 8 or July 9.

Chairman THOMPSON. July 8?

Ms. PARKER. July 8 or July 9, 1997.

Chairman THOMPSON. Then June 29, you did another trash cover and you came up with PLET checks, which would not have been responsive to your subpoena but would have been responsive to our subpoena and you had that conversation.

Ms. PARKER. And actually they were responsive to our subpoena.

Chairman THOMPSON. Oh, they were?

Ms. PARKER. Yes.

Chairman THOMPSON. The PLET checks were?

Ms. PARKER. I am almost 100 percent sure. I would have to see the subpoena again.

Chairman THOMPSON. All right.

So, and then you had how many other trash covers after that?

Ms. PARKER. July 29, August 5 and August 19.

Chairman THOMPSON. Reference has been made to interviews, staff interviews and we have had pretty extensive staff interviews of all those involved. I thought I might give you an opportunity, maybe a little preview. Mr. Radek—who, over at the Public Integrity Section, was supervising Ms. Ingersoll—apparently said that the problem here is that the FBI was always pushing the envelope and forcing the Department of Justice to restrain them so that the FBI could complain to higher authorities about Ms. Ingersoll.

In other words, you were trying to set Ms. Ingersoll up.

Radek also said the Department of Justice allowed the FBI CAMPCON team to be more aggressive than normal precisely in order to appease them.

He said, talking about the lack of action with regard to these destroyed documents, all and all Radek said he felt that "the FBI was going off half-baked" and there was no "obstruction that required immediate action." I guess it was obstruction that didn't require immediate action.

And that no important documents were being destroyed, and that he believed the agents investigating merely "wanted to break down doors."

That is what the guy said who was back at the Justice Department calling the shots—we will talk to him and Ms. Ingersoll. I don't blame Ms. Ingersoll nearly as much as she probably thinks I do because I know why she was put there and know who was calling the shots. But here is the guy who is calling the shots talking about your motivations out in the field as to why you wanted to put a stop to this document destruction.

You just wanted to break down doors, you were trying to basically set things up so you can complain against Ms. Ingersoll. And he actually gave you more leeway than ordinary just because you were so rambunctious.

Mr. Smith, what do you think about that?

Mr. SMITH. To suggest that there was a nefarious plot on the part of the FBI to cause problems for Ms. Ingersoll is absolutely absurd. As far as the other, I would hate to think that anyone trying to investigate a complicated matter that had more restraints than this one did. I just can't imagine trying to investigate a matter in that environment.

If this was one where we really got a lot of leeway because of we were making a lot of noise, I would hate to try to investigate one with less investigative flexibility.

But the first suggestion that you made is just absolutely absurd, and, frankly, I find it patently offensive.

Chairman THOMPSON. Any other comments anyone else would like to make?

Ms. PARKER. I would actually reiterate what Mr. Smith says. There was extensive control of this investigation by DOJ both before Ms. Ingersoll's tenure and after Ms. Ingersoll's tenure.

I have been in the field 17 years and I have not seen that in any other situation. I have never been told how I should interview witnesses or when it is time to put somebody in the grand jury. So, quite frankly—and I am not a knocking-the-door-down type of person. I have worked white collar crimes most of my life. I am not interested in doing that. I am only interested in making the case and finding the truth.

Chairman THOMPSON. Well, let's talk about some of these non-Trie-related matters. We have spent a lot of time on this document destruction business and rightfully so and we are going to get to the bottom of that. But you mentioned other things, Mr. Smith, and in our interviews with the others, all of you talked about a pattern. It wasn't just Charlie Trie that caused you to write that memo. You talked about a pattern. Mr. Yaffe had the wrong standard for probable cause for issuing a subpoena. Ms. Ingersoll had

the wrong standard for probable cause for issuing a search warrant.

They either were stating it incorrectly or just didn't know better. And you have been in the field for many years—two of you are lawyers, of course—and knew better than that. But it looks like constantly everywhere along the line the standard being imposed apparently was higher than what the law required.

Now, that gets back to your comments about some people trying to stay out of trouble and some people trying to find out things.

Mr. Wehr, what about the PEN register business? You had a situation where you wanted to place a PEN register in a certain place before a subpoena was issued, as I understand it. Could you relate what happened there?

Mr. WEHR. Yes.

We wanted to start PEN registers on Maria Mapili and I don't remember the sequence in terms of when we made that decision but there was a decision made to place PEN registers on Maria Mapili's residence.

Chairman THOMPSON. Had you started your trash covers at that point?

Mr. WEHR. May I consult my notes here?

[Pause.]

Mr. WEHR. I don't have the exact date of the trash covers. I do know that——

Chairman THOMPSON. June 24 is when you started.

Mr. WEHR. June 24? Yes. They had started already. The trash covers had started already.

Chairman THOMPSON. All right. You had already started your trash covers?

Mr. WEHR. Yes.

Chairman THOMPSON. Explain what a PEN register is, briefly?

Mr. WEHR. A PEN register is a device that records the numbers pulsed to or from a telephone and the duration of the call or the duration of time that the receiver is off the hook.

Chairman THOMPSON. All right. So, you wanted to find out who Ms. Mapili would be calling, right?

Mr. WEHR. Yes.

Chairman THOMPSON. And specifically you wanted to find out who she would be calling immediately after you served your subpoena?

Mr. WEHR. Yes. And who would be calling her, as well.

Chairman THOMPSON. And who would be calling her.

So, what happened? Did you explain this to people at the Campaign task force?

Mr. WEHR. Yes.

Chairman THOMPSON. What happened?

Mr. WEHR. And I believe we agreed on that plan at some point in time that we were going to have the PEN registers in place before the grand jury subpoena was going to be issued. And I am sorry I don't recall who told me or gave me the directive but I was told by telephone—I believe it was on or near June 26—the day that we actually served the subpoena on Maria Mapili, to do so. To go ahead and serve that subpoena prematurely.

Chairman THOMPSON. Before you had a chance to install the PEN register?

Mr. WEHR. Right. And, again, I don't recall the discussions I had with this person but typically I am not one to hold back in terms of my opinion about such things.

And I thought that it was improvident to do so but we went ahead with those orders and we served the subpoena.

Chairman THOMPSON. You objected but you followed orders?

Mr. WEHR. Yes.

Chairman THOMPSON. And went ahead and served the subpoena, even though you didn't have the PEN register set up and it would deprive you, obviously, of the opportunity to find out who she was calling and who was calling her right after the subpoena, is that correct? Is that the way you remember, Mr. Smith?

Mr. SMITH. Yes, sir.

I remember it very well because as I recall I even called the task force myself to object to——

Chairman THOMPSON. Called who?

Mr. SMITH. The task force, and I don't recall who I talked to, to object to this. And this is why the reference I made in my opening statement that kind of deprived us of the opportunity to determine exactly why the particular attorney that was totally out of character that he would even come down to Little Rock and certainly with all of the attorneys and stuff like this, why he was the one that was suddenly representing her.

And I recall that the thing that you will serve this thing today without fail, one of those type things, where there was absolutely no need to—I mean this is a subpoena, subpoena 24 hours——

Chairman THOMPSON. So, even though you were telling them, please, let us wait until we get the PEN register set up so that we can determine who she calls and who calls her.

Mr. SMITH. Absolutely. The reaction to this is because——

Chairman THOMPSON. This is the first affirmative, aggressive move I have heard out of the Campaign Task Force. I am glad to know there was one.

And it was to instruct you to go ahead and serve that subpoena, even though they knew that it would deprive you of that investigative opportunity?

Mr. SMITH. That is right, because even at the time there were indications that knowing Ms. Mapili, one would have to think that she was not the person to make a decision to destroy documents and take the steps that she was doing in things of this nature. That she worked for Charlie Trie. She was his secretary or something there for a number of years leading up to this time. And the steps that she was taking, in my view, my considered opinion, were not steps that she would take in her own initiative. She was the type of individual that would be responding to direction.

Chairman THOMPSON. And we found out, months later, she acknowledged just exactly that, didn't she?

Mr. SMITH. Well, I think that is correct. And, so, what we wanted to do is determine exactly what her reaction would be when she was served this subpoena. She should have been served anyway, but should have been served with this subpoena. And we were deprived of that opportunity to do so.

And there was not, I can assure you, Senator, that it was not by just chance that W.H. Taylor happened to show up in Fayetteville. If you have ever been from Little Rock to Fayetteville, and you drive up the Pig Trail——

Chairman THOMPSON. No. But I have always wanted to. [Laughter.]

Mr. SMITH [continuing]. There is, you just can't hardly get there from Little Rock and vice versa and it's not an easy drive. And here's a fellow that—he did not practice in Little Rock almost not at all. Most of his practice was in the Western district and him showing up down there was very much out of character and it was not just a coincidence in my view.

Chairman THOMPSON. Did you try to find out who was paying his fee?

Mr. SMITH. Well, I raised this issue with the task force and I talked to Laura Laughlin and her first comment was, well, everybody has a right for an attorney. I said, but you don't understand the wiring diagram that you are dealing with here. Mr. Taylor is a personal attorney, not a corporate attorney for Don Tyson. He is a personal attorney for Don Tyson. He spent a lot of time dealing with Don Tyson's son.

And actually I had met Taylor and he was described to me by the individual that had introduced him about that same time. I don't know if that matter was ever pursued or not.

Chairman THOMPSON. Was Ms. Mapili in a position to pay for that kind of an attorney?

Mr. SMITH. I doubt it, given the——

Chairman THOMPSON. Well, our Committee knows enough about that, after the fact, to know the answer to that question is clearly, no.

I want to move on to a couple of more things. Keshi Zhan, there was an attempt to get an arrest warrant issued for her. Mr. Sheridan, were you in charge of that? What happened there?

Mr. SHERIDAN. Yes. I was involved with that. Just prior to the searches we have already talked about we were putting in—our investigation of Keshi Zhan was indicating that she was more than just a friend; she was an associate of Mr. Trie's, who worked for him. She was an accountant. She was clearly involved in the conduit schemes that we had been investigating aggressively.

And we had information to believe that she was going to be leaving the country. We approached with our supervisors that we thought that it was the time to—myself. This—all of this was going on myself and Agent Parker in DC.

Keshi Zhan lived in Virginia. We started to focus on that aspect and we felt that an arrest warrant of Keshi Zhan was the next logical step. We pursued it. It was a—we had a short time line because we knew when she was leaving. We were receiving evidence daily that we were putting together more and more conduit transactions that Ms. Zhan was involved in. And if she wasn't involved, these transactions might not have even occurred.

Appeared to be clearly the Washington contact for Mr. Trie. Our concerns of her fleeing were addressed up the chain. I was present at, at least two meetings, DOJ with—and I don't recall everyone that was there. Mark Richard was the chair. We presented initially

an overview of Charlie Trie, of the investigation to date and what our plan was regarding Ms. Zhan.

When we left that meeting, I felt that we were going to be able to arrest Zhan. Then we found out, I believe, the next day or some point fairly quick that that had been shot down.

Chairman THOMPSON. Meaning what?

Mr. SHERIDAN. We were not going to be able to conduct, effect the arrest.

Chairman THOMPSON. Why?

Mr. SHERIDAN. We didn't have reason to arrest her. There was no reason——

Chairman THOMPSON. According to whom?

Mr. SHERIDAN. DOJ. I mean I was told—I don't recall who I was specifically told by—but I think Jeff Lampinski advised me.

Ms. PARKER. Well, I was just going to say that the first meeting that we had at DOJ concerning the Keshi Zhan issue was on or about June 20, 1997. And Mark Richard was there. I don't know whether Laura Ingersoll was there. I don't know whether Mr. Radek was there. I know Jeff Lampinski was there. Kevin and myself were there. Jonathan Biran, Bill Corcoran, Mr. Gallagher, Larry Parkinson and we discussed at length what Kevin Sheridan just said. The evidence that we had for an arrest warrant for Keshi Zhan.

At the conclusion of the meeting we were all left with the impression that we were going to go ahead with the arrest warrant and, in fact, Jonathan Biran and I drafted the arrest warrant. I happen to have a copy of Jonathan Biran's final draft which was dated 6–23–97. So, he and I worked on this, we put it all together. I did the initial one. He kind of massaged it.

And then on July 24, we were told we were going to have another meeting with basically the same individuals and I believe that Laura Ingersoll was there at that particular point in time. However, the tenor of the conversation had changed radically from agreeing that we should arrest Keshi Zhan for substantive violation and, in addition, because there is the potentiality that she would flee, to that basically I hate to say it but the Department of Justice said that there was, that we shouldn't arrest Keshi Zhan at all. There was a real negative tenor to that meeting on July 24.

And the discussion centered on her intent, did she really have specific intent. But also, part of the discussion was, well, she will come back from China.

Chairman THOMPSON. Yes. I believe she did, right after our hearings were over with.

Ms. PARKER. That is exactly it. I mean she left on June 25, never to return during the pendency of our investigation. But the one disturbing thing that did come out during one of those two meetings was that—and I believe it was Joe Gangloff from DOJ actually made the comment that we don't arrest conduits. We don't arrest people in this situation, which I found was to be rather disturbing. We saw Keshi Zhan as a means to the end. She was clearly committing criminal activity in our mind. But we also wanted to know what she knew about Mr. Trie, as your Committee did.

Chairman THOMPSON. This business about conduits, not arresting conduits. Was there also some discussion about not prosecuting conduits, at some other time?

Ms. PARKER. Yes. Being a conduit is a misdemeanor. And we were under the impression that we would not—that DOJ would not prosecute conduits, since it was a misdemeanor situation.

However, if we could find evidence that, for example, what we saw in the Keshi Zhan situation that she actually was acting and conspiring with Charlie Trie to use others as conduits, then that would be a different situation. But the conduits, themselves——

Chairman THOMPSON. Well, what we have here is a perfect setup for not finding out anything. You have an interpretation of the Independent Counsel Statute which is more restrictive than if there were no Independent Counsel Statute at all. It actually serves as a protection of covered persons, if you are going to ignore the conflict of interest part.

You have got to have a high standard before you can even ask a question of anyone about a covered person. And then you couple that with not prosecuting lower levels or not putting pressure on lower level people so that they would talk. What is the normal standard of an investigation? Now, if you were investigating a mayor, Mr. Smith, or a governor or a senator or an alderman, and there was a tenth of as much going around in the newspapers as was going around about this crowd and you were in charge of an investigation, how would you proceed?

Mr. SMITH. Well, you proceed by getting the lower level people and working your way through the system until you get to the top.

Chairman THOMPSON. Is that the way it worked in this investigation?

Mr. SMITH. Well, not with a great deal of success. That is just a standard investigative technique that occurs all the time.

Chairman THOMPSON. Were there any policies with regard to this investigation or any practices that were followed that made it more difficult here than you would normally find if you were investigating some other public figure?

Mr. SMITH. Well, if there was a decision made—and it is a little unclear to me if there was—if there was a decision made that, well, we are really going to ignore these conduits, well, that is just absolutely wrong from an investigative standpoint, because you remove any leverage you might have on potential witnesses that could give you the information that you need to do the investigation and to prosecute people at a higher level.

Chairman THOMPSON. Did the presence of the Independent Counsel Act in your conversations, any that you had with the task force, present any problems with regard to the kinds of interviews you could conduct or the kinds of questions you could ask in these interviews? Was that ever brought up as something you have to be concerned about?

Ms. PARKER. The only time the Independent Counsel Act was even mentioned to me was one situation where I was told that we had to indict Charlie Trie on a given date because of a decision on an independent counsel.

Chairman THOMPSON. What was that about?

What do you mean a different date?

Ms. PARKER. They wanted a particular time frame that we were going to indict Charlie Trie and the feeling was the indictment should come in before the Attorney General had made a decision on some particular independent counsel. It wasn't a Charlie Trie independent counsel, it was some other independent counsel issue that was before her.

Chairman THOMPSON. Let me get this straight. Now, so that the indictment would come down at a different time or the time frame covered——

Ms. PARKER. It was pushed up.

Chairman THOMPSON. Excuse me?

Ms. PARKER. The time frame of the indictment was pushed up.

Chairman THOMPSON. So, that that indictment would have been carried out before the Attorney General made a decision on another——

Ms. PARKER. Correct.

Chairman THOMPSON [continuing]. Independent counsel?

Ms. PARKER. Yes. But that was the only time——

Chairman THOMPSON. Was there any discussion as to why?

Ms. PARKER. No.

Chairman THOMPSON. Now, Ms. Parker, you hesitated. I know this is an awkward position for you to be in but you are under oath. You have been very helpful. I know this is tough on you and I know you got to go back over there. But you need to tell not only the truth but the whole truth.

Ms. PARKER. There was no discussion as to why that decision was made. I disagreed with the decision to indict Charlie Trie when they wanted to indict him.

Chairman THOMPSON. Why?

Ms. PARKER. The decision was that we were going to indict Charlie Trie in November. And I didn't think we were ready to indict him in November and I was told we would indict him in November. Subsequently we did not indict him in November. We ended up indicting him in January of——

Chairman THOMPSON. Who did you have this conversation with about Charlie Trie's indictment?

Ms. PARKER. There were a cast of characters, including Mr. DiSarno and Mr. LaBella.

Chairman THOMPSON. Well, who else?

Ms. PARKER. That I would have to refresh my recollection on. I really don't specifically recall. Well, Sandy Wilkinson and Tom McNamara, who were the two DOJ—actually AUSAs, who were assigned to CAMPCON at that particular point in time and who handled the Charlie Trie investigation.

Chairman THOMPSON. Did they give you any reason why they wanted the indictment——

Ms. PARKER. No.

Chairman THOMPSON [continuing]. Moved up, other than what you have——

Ms. PARKER. No. They were just pushing for that time frame.

Chairman THOMPSON. Was it a public relations move, basically?

Ms. PARKER. My opinion? Probably, yes.

Chairman THOMPSON. There was also an instance with regard to information that someone had concerning a $100,000 contribution

coming in, supposedly from China, into the DNC. And a witness that you had who was cooperating with you. You turned it over to the task force and it came to no good end, as I recall. Who was in charge of that?

Mr. Wehr, was that yours?

Mr. WEHR. Yes.

Chairman THOMPSON. What happened?

Mr. WEHR. This is the same individual that Mr. Smith referred to earlier that lived a distance away from Little Rock that decided to cooperate with the investigation. This individual witnessed—he described it as duffle bags of money—or, I am sorry. He heard another witness admit to witnessing duffle bags of money being transported into the United States from China by Charlie Trie.

Chairman THOMPSON. And, so, he said that someone else admitted this?

Mr. WEHR. Yes.

Chairman THOMPSON. I take it, it was not Mr. Trie?

Mr. WEHR. It was not Mr. Trie. It was a person who travelled with Mr. Trie.

Chairman THOMPSON. All right.

Mr. WEHR. And——

Chairman THOMPSON. I suppose it would be best not to relate that name?

Mr. WEHR. Can I consult with——

[Pause.]

Mr. WEHR. Mr. Steele, our deputy counsel, advised me that this might violate Rule 6(e).

Chairman THOMPSON. That is what I wondered.

As I understand it, this was $100,000——

Mr. WEHR. I am sorry. I am confusing this with something else. The $100,000 part was Mr. Trie making an admission to this same party, by the way—it is the same witness we are dealing with—that he had paid $100,000 to the Democratic National Committee or the PLET—I can't recall which of the two organizations—in order to have a lunch with the President in Washington.

Chairman THOMPSON. All right.

Did you have any information with regard to the source of that $100,000?

Mr. WEHR. No. Only that Charlie Trie had made this admission.

Chairman THOMPSON. All right. Was this $100,000 cash?

Mr. WEHR. This was, yes, $100,000 cash.

Chairman THOMPSON. Is there a separate instance where you had information about money coming from China?

Mr. WEHR. Yes. That was a trip that was taken to China by Charlie Trie and this same individual to whom the admission was made.

And I can't identify that person.

Chairman THOMPSON. What was the admission that was made, that Mr. Trie brought money back or what?

Mr. WEHR. Yes. That Mr. Trie brought duffle bags of money back but this was like twice-removed hearsay at that point.

Chairman THOMPSON. Right. So, you began to work your way up the chain on that, I suppose?

Mr. WEHR. Right. We wanted to interview the unnamed witness.

Chairman THOMPSON. So what happened?

Mr. WEHR. A request was made and I got no response to that request. And later, it turns out that the—actually I got a call from Jerry Campane, who is——

Chairman THOMPSON. From our Committee.

Mr. WEHR [continuing]. From your Committee saying that he had been in town and that he wanted to—he asked me whether or not I had interviewed this party and whether or not I wanted to do so with him? And I said I would get back to him and then when I called our headquarters regarding this I was told not to have further communication with Mr. Campane.

Chairman THOMPSON. So, what happened to that investigative lead as far as you know? Was that the end of it?

Mr. WEHR. It was—well, it was the end of it at that point and then at some later point, I believe you had this same person testify before your Committee or perhaps it might have been a House committee but I read a transcript of his testimony that resolved the issues involved.

But it was a delay.

Chairman THOMPSON. All right.

The other instance, I believe, about Mr. Trie's $100,000 in cash, either to the DNC or to the PLET, you could not recall which, is that what you said?

Mr. WEHR. Yes. I can't recall which of those two.

Chairman THOMPSON. Did this person go before a grand jury and did Mr. Corcoran handle his interview?

Mr. WEHR. Yes.

Chairman THOMPSON. What happened?

Mr. WEHR. He went before the grand jury and I know this because I had to pick up this person at the airport after he returned from Washington. He did not have a lot of money and his car was broken down and it was quite late. But he told me that he had been totally alienated by the DOJ attorney who handled his questioning before the grand jury and that he was more concerned about the witness' alcoholism and financial problems than the true facts and in his opinion he didn't know what the substance of the witness' testimony was supposed to be.

Chairman THOMPSON. That Mr. Corcoran didn't seem to know what the substance of his allegations were?

Mr. WEHR. Yes.

Chairman THOMPSON. And that is that Mr. Trie had acknowledged to him that——

Mr. WEHR. Yes.

Chairman THOMPSON [continuing]. He had brought $100,000 cash——

Mr. WEHR. Right.

Chairman THOMPSON [continuing]. To a particular point.

Mr. SHERIDAN. Sir, I think there is a little confusion regarding the $100,000.

Chairman THOMPSON. All right. Go ahead.

Mr. SHERIDAN. I think that is a separate incident.

Mr. WEHR. Yes, it is.

Ms. PARKER. Yes.

Mr. SHERIDAN. But regarding Mr. Corcoran meeting with this individual, it was on the premise that he had information regarding somebody bringing duffle bags or a duffle bag of money into the United States with Mr. Trie.

And then Mr. Corcoran—there were some problems, obviously, with—between the witness and Mr. Corcoran when the individual came to DC.

Chairman THOMPSON. Do you know anything about those problems, Mr. Smith?

Mr. SMITH. This is the witness that I thought could be very important. This is the one that I had gone up and personally spent time with to try to convince him to cooperate and he—I had the distinct impression that the information that he had provided us initially was not all that may be available to him, certainly after his return trip.

And then after the—we picked him up and what is an hour-and-a-half drive to his residence and he was venting to Agent Wehr, the whole time there about his mistreatment and stuff like this. And his comments were that basically that they really didn't want to hear anything there.

Even some of the very elementary type of questions relating to the investigation were not asked. They spent more time talking about, well, didn't you used to be a millionaire and you lost your money? Well, aren't you an alcoholic? In other words, almost discrediting him in the eyes of the grand jurors as opposed to eliciting from him information that may be very relevant to the investigation.

And he came back devastated and I am still of the opinion that he has information that could be of value and perhaps in other areas because he has been a long time Arkansan and knows a lot of people, that we will never receive now.

Chairman THOMPSON. Did someone write a letter objecting, either him or one of you, objecting over this matter?

Mr. SMITH. Did he write a letter?

Mr. WEHR. Yes. He wrote, as I understand it, he wrote a letter to the Attorney General, personally, and also conducted a press conference on the issue shortly after his return to Arkansas.

Chairman THOMPSON. As far as we know we still don't have the information that you think he has got, is that right, Mr. Smith?

Mr. SMITH. I think there was more there. It may not have been directly related to this investigation but I think there was more information that——

Chairman THOMPSON. Is this the one, Mr. Sheridan, where you said that you had never seen an attorney as unprepared as Mr. Corcoran in that situation?

Mr. SHERIDAN. I was embarrassed to be in the room during the pre-interview, grand jury interview.

I am not certain that the individual has any more information for us. I went through Agent Wehr's previous interview with the individual at some length and felt comfortable that what he was telling us I thought was in its entirety. I think Agent Wehr got to the substance of that previously.

But when Mr. Corcoran came into the conference room, he was clearly not prepared for the prep.

Chairman THOMPSON. Anything else anybody wants to say?

Mr. SHERIDAN. In addition to that, though, I would say that the individual also had some preconceived notions. I don't want to defend Mr. Corcoran's—what he did, but this individual from my observation also had an agenda here and wasn't happy with the way the outcome was.

Chairman THOMPSON. That is entirely probable here.

Obviously, people have mixed agendas and motives. I mean what we are talking about here is not micro-managing or second-guessing every investigative step that was made or every decision that was made. Even on issues of probable cause, reasonable people can disagree.

But we are talking about a pattern here. We are talking about a pattern of, in some cases, incompetency. We are talking about a pattern of, in some cases, inexplicable decisionmaking, and we are talking about an end result, as we sit here today. We sat here a year and tried to find out with limited time—having to gear up fast and do what we could—and lay out on the public record generally what happened in that last presidential campaign. It was not a pretty picture.

People started fleeing the country. We started hearing rumors of documents being destroyed. People got together with their attorneys in joint defense agreements and all of that. People taking the Fifth Amendment.

And knowing that they had a limited period of time to deal with during our investigation, they hunkered down. That is the way it works nowadays.

And you got a Justice Department saying, trust us, we are very aggressively and competently working this case. But they, obviously, had inexperienced people working this thing who were having to check with their superiors on all these major decisions. And it was just the ultimate in timidity. Because it was such a sensitive case, it should have been handed over to someone on the outside. Ironically, it apparently took about 24 hours to bring Mr. Danforth in or make a decision somebody needed to be brought in on Waco.

Well, what about this, dealing with the President's personal friends? Janet Reno insisted she was going to take the heat but she was being advised over there by these career people who had never seen anything like this before, were resentful of the independent counsel law, had never been put in the position of a conflict like this, wanted to show the world they could handle it, and exercised total control of everything that was going on. And with all this going on she couldn't bring in someone from the outside to take a look at this. So, now we have all these questions which will make this whole episode—this whole sorry episode—forever tainted in the eyes of the public and the historians.

Now, on all probability these are some well-meaning people who are in over their heads. But nobody can exclude the possibility of corruption in a deal like this, in the world that we live in. This could have all been avoided. It could have all been avoided if you either had an aggressive investigation with the intent to let the chips fall where they may or had brought in a special counsel, someone objective, to look at these matters.

Forget the independent counsel law. We see now, we saw throughout all this that the independent counsel law was being used as a shield. All these obvious conflicts would come up and the Attorney General would say, well, this "i" was not dotted, this "t" was not crossed and, therefore, the complexities of this law were not complied with. And you would get scholars down at Georgetown to agree with her. And so on, ignoring the basic question: Is anybody going to have any faith in this Justice Department handling a matter of this importance involving the President's friends?

And almost by accident, after the fact, do we now find out what you all were going through all this time and about this hapless—at best, I will say, at best—this hapless investigation. Not to even mention—well, I am not going to go further until I know a bit more about it because I would probably say too much if I got started. Last, but not least, when we try to find out a little something about it, they send information up here that just happens to delete 27 pages of details showing or covering the period of time that is most in contention here. That is beyond comprehension. As I say, we will reserve further comment on that.

You, ladies and gentlemen, I can't tell you how much I appreciate your coming here, the three of you who are still with the Bureau. Needless to say—and I don't think I have to say this—if there is any intimation of any repercussions and intimidation from your coming up here today I, personally, want to know about it. Will you promise me that, that you will let me know if that happens?

Ms. Parker.

Ms. PARKER. Yes.

Chairman THOMPSON. Mr. Sheridan.

Mr. SHERIDAN. Yes, sir.

Chairman THOMPSON. Mr. Wehr.

Mr. WEHR. Yes, sir.

Chairman THOMPSON. I know this is uncomfortable for you. I think you have been reluctant witnesses, but I think you have been truthful and accurate to the best of your recollection here today and that is all we can ask of you. And I appreciate that. This is a terrible position for you to have to be in, but I wasn't the one who put you there.

Mr. Smith, you have retired now and you are obviously a man who probably would call it the way you saw it, even before you retired.

Mr. SMITH. I did and I paid for it at times, Senator.

Chairman THOMPSON. Well, I will bet you did. But you have done your country a service by sticking to your guns and by being truthful and honest. I know you hate to do anything that puts any embarrassment on the people that you work for and spent your life being proud of. That is the agony that many people, like myself, have. I spent three of the best years of my life working hand-in-hand with FBI agents, had the greatest respect for them, would have trusted them with my life. And my Justice Department certificate of appointment on the wall was the proudest thing that I had at that particular time.

We came up here to Washington once in a while as Assistant U.S. Attorneys. And to see what it has disintegrated to today is beyond appalling. That is not all of it, that is not everybody, but

these sorts of things should not be happening when they are so easily rectified, in terms of letting somebody come in and fix things. As it is, the thing gets tainted on the front end.

As an investigator, you make decisions at the beginning of an investigation with people fleeing, documents being destroyed, people getting together to coordinate their stories, people deciding whether or not to take the Fifth or whatever. You make such decisions on the front end, and if they are the wrong decisions it haunts you for the rest of the investigation. That is clearly what happened here. Nobody can come in and undo some of the things that happened.

We have gone on much longer than I think any of us anticipated. I apologize to our other witnesses. Without vehement objection I am going to recess until 2:30 and resume.

I understand we will have two votes at 2 o'clock and that will get us back here by about 2:30.

Thank you. We are in recess.

[Whereupon, at 1:39 p.m., the Committee recessed until 2:30 p.m., the same day.]

AFTERNOON SESSION

[2:50 p.m.]

Chairman THOMPSON. All right. We will be back in session. Senator Lieberman will be here shortly. But I think we will go ahead and get started, since we are running so late anyway.

Our second panel consists of Justice Department officials Laura Ingersoll and Lee Radek. Ms. Ingersoll was the lead attorney on the Campaign Finance Task Force in 1996–1997, and Lee Radek is the chief of the Public Integrity Section of the Justice Department's Criminal Division.

Please stand and raise your right hand. Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth and nothing but the truth, so help you, God?

Ms. INGERSOLL. I do.

Mr. RADEK. I do.

Chairman THOMPSON. Thank you. You may be seated.

Any opening statement that either of you would care to make?

Ms. INGERSOLL. Yes, Mr. Chairman.

Chairman THOMPSON. Proceed.

TESTIMONY OF LAURA INGERSOLL, ATTORNEY, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Ms. INGERSOLL. I have been asked to come before you today to answer certain matters and complaints raised by certain FBI personnel about decisions made during 1997, in particular focused on a pair of search warrant applications pertaining to Charlie Trie.

This is the first time I have been able to speak publicly about my role in the task force, and I am sorry it is under these circumstances. Mr. Radek and I are going to be addressing in detail the particular matters before the Committee today. But, first, I want to let you know who I am. Because in the past 2 years, there have been references made to my abilities and experience in the press, and I have been unable to speak for myself. I welcome even this opportunity, this limited opportunity, to speak for myself.

I am a career prosecutor, a line attorney with the Criminal Division. I graduated from Wellesley College in 1973, and I worked for 10 years in corporate public affairs for several large U.S. industries.

In 1987, I got my law degree from the University of Connecticut School of Law. I was a law review editor there, and I concentrated in criminal law. After clerking for a Federal district judge in Connecticut, I joined the Justice Department's Criminal Division, through its Honors Program, in 1988.

In February 1989, I became a trial attorney in the Public Integrity Section, and I served as a trial attorney in the Public Integrity Section until late 1997.

For the past nearly 2 years, I have served as a senior trial attorney in the Criminal Division's Internal Security Section. While with the Public Integrity Section, I handled a wide range of public corruption matters around the United States. My supervisors regarded me as an aggressive, creative, efficient, effective, extremely independent and productive prosecutor. Before I was assigned to the task force, I obtained over 40 public corruption convictions for the section.

In my 11 years with the Division, I have been granted 11 performance awards, including four merit promotions, and I have had my share of election crime work as well. In the months leading up to the beginning of the task force, I prosecuted four Agriculture Department officials who violated campaign financing laws by conspiring to obtain campaign contributions from coworkers on the job. And I also edited the current edition of the Public Integrity Section's Election Crimes manual.

What was my role with the task force? My job was lead attorney, among a team of career Section prosecutors. It was to coordinate and steer the Criminal Division's resources on the task force. Although I led the attorneys and our small support staff, I didn't have official management or supervisory authority over them or other task force personnel.

As a Public Integrity Section trial attorney, I continued to report to my supervisor, Mr. Radek, either directly or through deputies. And as time went on, I came to report simultaneously on task force matters to Mr. Radek and to the Acting Assistant Attorney General who supervised the task force for the Criminal Division, Mark Richard, and to Deputy Assistant Attorney General Robert Litt.

Quite apart from the management structure, however, I understood my job with the Campaign Finance Task Force to be to get to the truth behind the allegations that people involved with Federal political fund-raising had violated criminal laws, to investigate aggressively and prosecute vigorously without regard to political pressures or interests. The only limitations I know of that were placed on the task force's ability to do that job were those imposed either by the law or by limited resources.

I am proud of the work that I did during my 10 months during the Campaign Finance Task—with the Campaign Finance Task Force. In those few months, we laid the groundwork for those prosecutions that have followed. I believe I have served the task force, as I tried to serve throughout my career, skillfully, effectively, professionally and honorably.

And I thank you for giving us the opportunity to address the issues that are here before you today.

Chairman THOMPSON. Thank you. Mr. Radek.

TESTIMONY OF LEE RADEK, CHIEF, PUBLIC INTEGRITY SECTION, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. RADEK. Thank you, Mr. Chairman. And I, too, welcome the opportunity to take our time to tell the rest of the story, in addition to what was heard this morning. I have no opening statement, but I would like to introduce myself.

I came to the Department of Justice in 1971 from suburban Chicago under the Attorney General's Honors program. I was, in 1976, selected to help start the Public Integrity Section. I became a deputy chief of that section in 1992, and I served—I am sorry, in 1978—and I served until 1992, when I became director of the Criminal Division's Asset Forfeiture Office.

In 1994, I returned as chief of the Public Integrity Section. I am a career member of the Senior Executive Service. I have never sought or received any political appointment. I have never, ever made a prosecutive or investigative decision based on partisan political considerations, and I have not knowingly tolerated one by anybody who is supervised by me.

I appointed Laura Ingersoll to head the task force, and I did it for two reasons. She was both competent and aggressive. In fact, she was one of the most aggressive attorneys in the Section. That is one reason why I chose her.

I would like to address many of the issues or all of the issues discussed by the early panel this morning, Mr. Chairman. But I think the most productive way to do it would be in answering questions.

Chairman THOMPSON. All right.

Mr. Radek, you say that you selected Ms. Ingersoll. I was under the impression that the Attorney General had made that determination. Did she task you with the job of selecting the person to head the task force up?

Mr. RADEK. I do not recall that it was that formal a process. When the initial allegations hit the paper, I was asked to get on it as a Section, and no personnel decisions were discussed. I made the decision to put her in charge of an early group that was to analyze the allegations as they were coming out in the press.

Chairman THOMPSON. Do you recall about when that was?

Mr. RADEK. Probably December 1996.

Chairman THOMPSON. Does that comport with your recollection?

Ms. INGERSOLL. Mr. Radek approached me and assigned me to the matter on November 1, 1996.

Chairman THOMPSON. November 1?

Ms. INGERSOLL. Correct.

Mr. RADEK. I stand corrected.

Chairman THOMPSON. By that time, certainly there was a lot of information in the newspapers—a great many allegations and stories about various individuals in connection with the campaign of 1996. Some of them, of course, had to do with public figures, and some of them had to do with people involved in this administration,

friends of the President. Is that why Public Integrity was immediately and initially involved in this matter?

Mr. RADEK. Jurisdiction within the Criminal Division, Mr. Chairman, is usually divided up by violation. Public Integrity is assigned campaign crimes, both campaign finance and voter fraud. So since the crimes in the paper, alleged crimes in the paper, appeared to be campaign finance related, that would naturally fall under the Public Integrity Section.

Chairman THOMPSON. But campaigns of public officials.

Mr. RADEK. Yes.

Chairman THOMPSON. Not the United Way.

Mr. RADEK. No, political campaigns.

Chairman THOMPSON. Campaigns for political figures, right?

Mr. RADEK. Yes, sir. Political campaigns.

Chairman THOMPSON. Right. All right.

Ms. Ingersoll, you say you went to the Department in 1988, Justice Department; is that correct?

Ms. INGERSOLL. Yes, Mr. Chairman.

Chairman THOMPSON. And what were your duties? Did you go to the Public Integrity Section at that time?

Ms. INGERSOLL. No, I did not. I came in through the Criminal Division's Honors program, and the program at the time called for its members—there were just six of us I think in my year—to rotate through various sections and get an understanding and some exposure and experience throughout the Criminal Division.

My first rotation was with the Organized Crime and Racketeering Section. I worked both in the Labor Racketeering Unit and the RICO Unit until I went to the Public Integrity Section. I initially went on a rotation, very soon discovered that it and I were pretty compatible. It is very good, challenging work, and we agreed that I would stay there.

Chairman THOMPSON. And Mr. Radek was there at that time?

Ms. INGERSOLL. Mr. Radek was the principal deputy chief at the time. Gerald McDowell was the chief of the section.

Chairman THOMPSON. Right. This is 1988. As I recall your testimony, you had just graduated from law school the year before; is that correct?

Ms. INGERSOLL. Yes, a year before in 1987.

Chairman THOMPSON. In the interim, you had served as a clerk to a judge?

Ms. INGERSOLL. Yes.

Chairman THOMPSON. And what judge? What level?

Ms. INGERSOLL. U.S. District Court Judge Alan Nevas in Connecticut.

Chairman THOMPSON. How long a period of time was that?

Ms. INGERSOLL. One year.

Chairman THOMPSON. One year. All right. Well, that is cramming a lot—you got your law degree in 1987, clerked for a year and then were in the Justice Department in 1988.

Ms. INGERSOLL. I had, sir, been out of college for 11 years.

Chairman THOMPSON. And then you became a senior trial attorney in 1999.

Ms. INGERSOLL. 1997, Your Honor—Mr. Chairman.

Chairman THOMPSON. I am sorry. 1989. What did I say 1999?

Ms. INGERSOLL. I became a trial attorney in 1989 and remained a trial attorney until I moved to a different section within the Criminal Division.

Chairman THOMPSON. Within the last 2 years?

Ms. INGERSOLL. Yes.

Chairman THOMPSON. Internal Security?

Ms. INGERSOLL. Yes.

Chairman THOMPSON. All right. So from 1989 to 1997, you were in the Public Integrity Section; is that correct?

Ms. INGERSOLL. Yes.

Chairman THOMPSON. How many attorneys during that period of time, roughly, how many attorneys were considered to be a complement for that section? Either one of you.

Mr. RADEK. Our regular staff is about 30, Mr. Chairman. It may have been a couple less than that then, and usually there were a couple of vacancies. So, generally, there would be 25 attorneys on board—25 to 27.

Chairman THOMPSON. All right. Did you have delineations of position under the top, say, two people in that section. Did you have senior, or junior attorneys, whatever?

Mr. RADEK. When I was a deputy chief, before I left in 1992, we had a management structure of a chief, three deputies, and two unit chiefs.

When I returned in 1994, I found that there were several senior litigation counsels and several senior trial attorneys carrying titles that had no real personnel ramifications; that is to say, they did not change on the organizational chart, and they did not receive any more money.

Chairman THOMPSON. Is that the way it remained?

Mr. RADEK. It remained that way. I made a policy decision, early upon my return, that I would not appoint any more special titles. I thought there were too many there at the time.

Chairman THOMPSON. And you have, today, several senior litigation counsel?

Mr. RADEK. I have no more senior litigation counsel. I still have some people who carry the senior trial attorney designation from before the time that I returned.

Chairman THOMPSON. All right. Ms. Ingersoll, did you carry that designation?

Ms. INGERSOLL. I did not.

Chairman THOMPSON. How many people did, Mr. Radek?

Mr. RADEK. I do not know. It would be a sizable amount, maybe one-third of the Section would have been given that title based upon seniority. But, again, I do not understand all of the reasons for it because it was not done by me or on my watch, and I was not happy with the system.

Chairman THOMPSON. But it sounds like, at least to an extent, you adopted it, allowed it to continue on, as far as a senior trial attorney designation.

Mr. RADEK. I made a decision that it would be detrimental to morale to remove from people the titles that they already had.

Chairman THOMPSON. OK. Ms. Ingersoll, this is not to—I had not really planned on belaboring this point until you mentioned it. You have taken a hit evidently primarily from your own people within

the Department over there, but welcome to the club. So have I. And I take most of my hits from my club over here anonymously, too, as far as that is concerned.

But at the time of the changeover in 1997, an article appeared in the *New York Times,* September 17, under the byline of David Johnson and Stephen Labaton, about this changeover, and Mr. LaBella's being appointed and so forth.And it refers to you, Ms. Ingersoll—it mentions your age—as a relatively junior member of the Public Integrity Section who could not be reached for comment. It said, "She arrived at the Justice Department in 1989 after clerking for a Federal judge in Connecticut. Ms. Reno's selection of Ms. Ingersoll to head the campaign finance case was a surprise because she was not regarded in the Justice Department circles as a seasoned prosecutor, although she had the support of respected career officials like Lee J. Radek, head of the Public Integrity Section."

Would you agree with that assessment, that as of that time, you were not considered, in Justice Department circles, as a seasoned prosecutor?

Ms. INGERSOLL. I cannot speak for how other people regarded me. I was highly regarded. I had been there for approximately 7 years, and I believe that in that time I had demonstrated, for that period of time, exceedingly high competency. So given the temporal time frame, I guess that is the only limitation I would place on it.

I would like to point out, Mr. Chairman, that I had never met the Attorney General prior to the time I began participating in briefings of her after the task force got underway. I have never had a personal one-on-one conversation with her, and I have not seen her, except to shake hands at awards ceremonies of the Criminal Division in the time since I left the task force.

Chairman THOMPSON. All right. I would suggest that this is not a matter of competency here. I think it is a question having to do more with experience than competency. Clearly, you had an outstanding academic background, and no one, as far as I know, has questioned your competence with regard to other matters.

The article goes on, "Before being selected to lead the task force, she occupied the second chair as assistant to a lead prosecutor in many of the trials in which she participated. One of the prosecutions she led focused on an official at the Defense Intelligence Agency, who was convicted of misappropriating government property by using an office computer and government photocopier to organize a local amateur ballroom dancing club. More recently, she worked on a case in which four officials of the Agriculture Department pleaded guilty of violating laws by soliciting contributions from colleagues and subordinates for a pro-Clinton Political Action Committee." And then the article refers to your relative inexperience.

Would those statements be a fair characterization of the situation?

Ms. INGERSOLL. They are limited and perhaps somewhat misleading. I was equal co-counsel, I was actually the lead counsel in the case that was tried that involved what the press liked to point out as the ballroom dancer. In fact, that was a senior analyst, intelligence analyst, at the Defense Intelligence Agency, who used a computer that was the DIA's mainframe national intelligence com-

puter system, and that is really what that case was about, I would suggest, Mr. Chairman.

Chairman THOMPSON. All right. I do not mean to denigrate the importance of the case. I am trying to get a little perspective here.

But you had about a third of the attorneys in the Public Integrity Section apparently delineated senior trial attorneys, senior trial counsels, and you were not one of those.

Ms. INGERSOLL. They were denominated that as a result of their tenure.

Mr. RADEK. May I say, Mr. Chairman, that had I still been in the business of giving such titles, Ms. Ingersoll certainly was in line for one.

And if I may also say, what is left out of that article are some cases that Ms. Ingersoll did prosecute, the *Lanning* case, for one, a major defense intelligence community case in which an official was giving favors to a mistress. It was a tough trial. I watched her try that case. She was very good.

Chairman THOMPSON. All right. Let us discuss the organization of the Campaign Finance Task Force for a minute.

Ms. Ingersoll, you were delineated as the head of that. How many attorneys did you have, who reported to you, to whom did you report and what was your relationship to the FBI?

Ms. INGERSOLL. I initially had no title, and initially there really was no task force. As Mr. Radek indicated, it was an analytical effort to review the published press reports and ascertain which, if any, among the published press reports appeared to give sufficient predication for criminal investigation. Within a very few weeks, it was evident that there was such basis, and the FBI and the Criminal Division began developing plans to establish what would become the task force.

In that initial analytical period, I had the assistance of three attorneys from the Section and a paralegal, and we worked full time on the matter. By mid-December, we had relocated into space that we anticipated we would be co-locating—co-occupying with the FBI. And at about that—between that time and the time I left the Section—I am sorry—the task force, we acquired approximately a net of four additional attorneys, either Section attorneys or attorneys on detail to the Section, and an additional net paralegal. We also had the consultative assistance of various other attorneys from within the Section, and ultimately, toward the end, also from outside the Section.

Chairman THOMPSON. Let us start with your core group. About how many attorneys were considered to be a complement for you on the task force?

Ms. INGERSOLL. We were eight attorneys for the bulk of the period of time.

Chairman THOMPSON. All right. Now, the names of Mr. Biran, Mr. Corcoran, Mr. Yaffe, among others that have been mentioned today, were they a part of the eight?

Ms. INGERSOLL. They were.

Chairman THOMPSON. All right. And then you had others within the Section and outside the Section you could call on from time to time.

Ms. INGERSOLL. In addition to four others.

Chairman THOMPSON. Obviously, the FBI is the investigative arm for any Federal investigation of this nature. There has been a lot of talk, before we get into the matters of contention, even before then, about the awkwardness of that relationship. As I understand it, there has been a lot of talk this morning about them coming to you and your discussing things with them, although you actually had no actual line authority over them; is that correct?

Ms. INGERSOLL. Both those points are correct, Mr. Chairman.

Chairman THOMPSON. And jumping ahead, when Mr. LaBella was brought in, the whole investigation, as I understand it, was taken out of Public Integrity, but yet, Mr. Radek, you were still the head of it; is that correct?

Mr. RADEK. That is not quite correct, Mr. Chairman. And I must confess to confusion myself. There was great confusion about the roles when Mr. LaBella first arrived. I was told by Mr. Litt and Mr. Richard that I was to supervise Mr. LaBella. Mr. LaBella, I learned in conversations from him, was told that I was not to supervise him. You can see where this created some misunderstandings.

Eventually, after a disagreement involving an indictment review, Mr. LaBella and I sat down and tried to iron out our differences. We were not totally capable of doing that, given the conflicting instructions. But we worked an accommodation where Mr. LaBella exercised what he thought was promised to him, and that was that I was to be in the loop informationally, but I was not in the decisionmaking loop; that is, I could not tell him what to do. And so I stopped telling him what to do.

Chairman THOMPSON. All right. I take it that before Mr. LaBella, it was pretty clear what the lines of authority were.

Mr. RADEK. Yes.

Chairman THOMPSON. And you could tell Ms. Ingersoll what to do.

Mr. RADEK. Absolutely.

Chairman THOMPSON. And did you work closely with her during the period of time that she was in that position?

Mr. RADEK. I did.

Chairman THOMPSON. I also noticed, Ms. Ingersoll, on a couple of different occasions—when the matter of the search warrant came up, for example, on July 1—you E-mailed not only Mr. Radek, but Mr. Litt and Mr. Richard. And, again, on July 7, after it had all happened, you E-mailed the same three individuals again.

Mr. Radek, where did Mr. Litt and Mr. Richard fit into this process?

Mr. RADEK. Mr. Richard was the Acting Assistant Attorney General for the Criminal Division for purposes of this case. Mr. Richard's normal title was and is Deputy Assistant Attorney General; that is to say, he would be a career deputy to a presidentially appointed and senatorially confirmed Assistant Attorney General. There was no confirmed Assistant Attorney General at the time. JoAnn Harris had left.

Jack Keeney, who was also a Deputy Assistant Attorney General, was the Acting Assistant Attorney General for the Criminal Division. Jack Keeney has a son who works at a Washington law firm. That son represented John Huang for purposes of a civil matter,

and so Mr. Keeney recused from this matter. So the responsibility to head the Criminal Division, for purposes of this investigation, fell to Mr. Richard, who was the next most senior Deputy Assistant Attorney General.

Chairman THOMPSON. We are very aware of that situation. My recollection is about 2½ years, during this critical period of time, a Senate-confirmed position of head of the Criminal Division of the Justice Department was not filled by someone who was Senate confirmed.

Mr. RADEK. That is correct.

Chairman THOMPSON. Now, what about Mr. Litt?

Mr. RADEK. Now, Mr. Litt's position changed, and I am unclear, and I have not been able to refresh my recollection, looking at documents, exactly when the transition took place. I believe when the investigation started that he was also a Deputy Assistant Attorney General. I know he was, at some point of time, I just do not know whether it was when the investigation started. And I believe, for the beginning of the investigation, he was in that position.

He was selected, but not nominated, to be the presidentially appointed Assistant Attorney General. That selection did not result in a nomination, I believe. And eventually he wound up as the Principal Associate Deputy Attorney General; that is, the No. 2 person to—or the No. 1 person to the No. 2 person in the Justice Department.

Chairman THOMPSON. Adviser to the Attorney General, basically.

Mr. RADEK. Yes, but—and he was indeed and in fact, an adviser to the Attorney General, but his position was as the Principal Deputy to the Deputy Attorney General at the end of that process.

Chairman THOMPSON. All right. What did Mr. Richard and Mr. Litt have to do with this investigation?

Mr. RADEK. They were in the chain-of-command. They supervised me supervising Ms. Ingersoll.

Chairman THOMPSON. All right. How often did you consult with either Mr. Richard or Mr. Litt, Ms. Ingersoll?

Ms. INGERSOLL. By the first, within a couple of months into 1997, Mr. Richard had asked me to send him daily reports on any significant developments within the task force and general status reports so that he could be kept up to speed with what we were doing.

I, at that point, began to send E-mails, and for effiency's sake, directed them, with everyone's consensus, to Mr. Radek, who supervised me directly, his supervisor, Mr. Richard, and also to Mr. Litt, who had a continuing involvement in the case, as Mr. Radek has described. So that there was this really constant stream of feedback or communication from me about what we were doing.

In addition, Mr. Richard held approximately weekly meetings of all of the principals associated with the task force: Myself, Mr. Radek from our side; occasionally one of Mr. Radek's deputies; and Mr. Lampinski, who was the lead agent on the task force; his supervisor, Mr. Gallagher; Mr. Bryant; and various other senior FBI personnel. Those meetings were approximately weekly.

There were also phone calls back and forth freely.

Chairman THOMPSON. Well, obviously, Mr. Richard kept close tabs on what was going on.

Mr. Radek, did you have regular consultation with the Attorney General during this period of time with regard to this investigation?

Mr. RADEK. I did not, and we did not. A couple of things, Mr. Chairman, before I respond to that. One is another name that is missing here is Joseph Gangloff, who was now my principal deputy. He also, between Ms. Ingersoll and I, was a supervisor in this matter.

The communications with the Attorney General were irregular, and it is hard to describe the frequency, but certainly less than weekly—maybe once or twice a month. And they would be in terms of a meeting to brief the Attorney General on the progress of the investigation. Later, when Mr. LaBella arrived, those meetings became weekly with the Attorney General.

Chairman THOMPSON. Either before or after Mr. LaBella's arriving, did Mr. Richard have the duties of briefing the Attorney General, do you know?

Mr. RADEK. I do know because he communicated to me often that he had raised certain points with the Attorney General. There are, in the Department of Justice, frequent briefings of the Attorney General given by all of the various components. Once a week there is a criminal matters meeting given to her by the management of the Criminal Division. And I do not know whether there was a separate meeting with Mr. Richard and the Attorney General to discuss the campaign finance investigation, but he indicated to me that he was in frequent contact with her.

Chairman THOMPSON. About the investigation?

Mr. RADEK. About the progress of the investigation, yes.

Chairman THOMPSON. What about Mr. Litt, was he in frequent contact with her, do you know?

Mr. RADEK. I do not know that. Most of my communication about what the Attorney General wanted was through Mr. Richard. Although I am sure I discussed it with Mr. Litt, also.

Chairman THOMPSON. Mr. Radek, were you one of the people who advised the Attorney General with regard to the applicability of the Independent Counsel law?

Mr. RADEK. Yes. In fact, the Public Integrity Section administered the law, and we were the first recommender on independent counsel decisions.

Chairman THOMPSON. Who else would be involved or were involved in those recommendations to the Attorney General?

Mr. RADEK. The normal process is for the Public Integrity Section to make a decision on whether or not a preliminary investigation need be conducted, whether there was a triggering mechanism. Even in the occasions when there were not, if it was a close question, we would notify the Attorney General in case she wanted to reverse that decision.

Assuming that a preliminary investigation would be conducted, the Public Integrity Section would normally conduct it, and at the end of that, make a recommendation to the Assistant Attorney General of the Criminal Division, through a Deputy Assistant Attorney General, assuming everyone was in place. That recommendation would then come from the Criminal Division to the Deputy Attorney General's office, who would attach a recommenda-

tion and finally make it to the Attorney General. That is the bureaucratic procedure.

In fact, before the Attorney General would make any of these decisions, she would consult anybody and everybody with an interest, particularly representatives of the FBI and anybody with knowledge. Also, when it came time for the campaign finance decisions to be made, because the task force was a joint FBI–DOJ task force, the FBI played more of a role than they usually did in other IC matters.

Chairman THOMPSON. But if you recommended against it or you recommended that there was not sufficient evidence to start a preliminary investigation or recommended against appointing an independent counsel, would that go up through Mr. Richard?

Mr. RADEK. Yes.

Chairman THOMPSON. Would it go up through Mr. Litt?

Mr. RADEK. Yes. I think in either position. I am not sure, at the beginning, when he was still in the Criminal Division, but certainly when he was in the Deputy's office.

Chairman THOMPSON. Ms. Ingersoll was in regular contact with both you, and Mr. Richard and Mr. Litt during this investigation, keeping them informed. You had no direct contact with the Attorney General yourself, Ms. Ingersoll?

Ms. INGERSOLL. Only in these group briefings.

Chairman THOMPSON. All right. Well, I think that helps to understand a little bit better. There has been a lot of speculation as to who is doing what over in the Justice Department over the last few years. That helps a little bit.

I want to focus now on some of the questions that we have had arise here today. And I want to start with those missing 27 pages.

You heard the testimony of Agent Parker, that she kept detailed notes; in fact, apparently almost three thick spiral notebooks of notes as to what happened during the investigation, notes of the events that occurred, positions that people took with regard to various matters that sometimes were in disagreement.

She, apparently, was told that the Campaign Finance Task Force needed those notes to respond to congressional inquiries or congressional subpoenas. She turned those notes over to an FBI agent in June, and got them back in August and missing were 27 pages. She also said that, apparently, from talking to another one of her colleagues and the information he gave her, when he checked in mid or late June, they were missing by then.

The portions missing would have covered the time, in fact, the dates of this controversy—the first date is the date of the first trash cover, and they would have covered the two trash covers, the first two trash covers. They would have covered the subpoena or search warrant, I guess, and discussions, disputes, and disagreements that were had and the events surrounding that.

I would assume that these materials, passed through more than one set of hands. They were for the purpose for the Justice Department making a response to a Congressional subpoena. And I am not sure when you first heard of this. I am wondering what you know about it that you can tell this Committee.

Mr. RADEK. I am, I guess, happy to say I cannot enlighten the Committee at all.

I first learned about the missing pages when I received a copy of a letter from Congressman Burton to the Attorney General asking for interviews of Ms. Ingersoll and myself and mentioning the missing pages. I subsequently learned, and everything I am about to tell you is hearsay, I subsequently learned that there was an issue of the missing pages, that the notebooks were turned over to the FBI and returned from the FBI and that the FBI's Office of Professional Responsibility was investigating it, and other than that——

Chairman THOMPSON. Wait a minute. That the notes were——

Mr. RADEK. Turned over by——

Chairman THOMPSON. Turned over by the FBI?

Mr. RADEK. From Agent Parker to the FBI.

Chairman THOMPSON. Yes.

Mr. RADEK. And then returned to her by the FBI, and I do not know if anybody else had custody.

Chairman THOMPSON. You are not suggesting that they never left FBI hands, are you?

Mr. RADEK. I do not know. I am suggesting that they were in the custody of the FBI. I do not know that they were in anyone else's custody. I just do not know. I was unaware that she had any notes. I have never seen those notes. I have no idea what was contained in them.

Chairman THOMPSON. Ms. Ingersoll, what do you know about it?

Ms. INGERSOLL. Absolutely nothing, other than the reference in the letter from Congressman Burton. That is the first I heard of this. I left the task force and the Public Integrity Section on October 30, 1997, have had virtually nothing to do with the task force to the point even of being kept informed or trying to make myself informed about the task force's work. I do not recall ever being aware that Ms. Parker kept notes. I was not involved in document production, nothing.

Chairman THOMPSON. Mr. Radek, this has to do with the investigation in which you were supervising. Do you have more than a passing interest in this issue?

Mr. RADEK. At the time that these documents were turned over, I was not supervising, sir.

Chairman THOMPSON. Well, I am not talking about the time they were turned over. I am talking about the time that they had to do with, and that is basically 1997.

Mr. RADEK. I have an interest because I am called before this Committee, sir.

Chairman THOMPSON. Is that the only reason that you have any interest?

Mr. RADEK. Well, currently, that is correct, sir, yes. I mean, to the extent that these old accusations by IC Smith have surfaced, that is the only thing that renewed my interest in this subject matter at all.

Chairman THOMPSON. Well, I find that kind of remarkable. Here you have Congress asking for information, apparently the Justice Department purporting to give that information, and the House received it, we received it. But after they got it from Agent Parker, 27 pages, having to do with areas greatly in contention and having to do with those old charges that you are talking about, disappear.

Assuming you are in the business of the administration of Justice, I will ask you again, does that not concern you?

Mr. RADEK. Does it concern me as a person? Absolutely, sir. Does it concern me as a subject matter that I am investigating at this point? Absolutely not, sir. It is in the hands of OPR.

Chairman THOMPSON. What do you think about it, Ms. Ingersoll?

Ms. INGERSOLL. I think if I were at your end of things, I would be quite outraged, Mr. Chairman. I also have every interest in the truth of these allegations coming out. And to the extent any notes of anyone could help that, I think they should be made available.

Chairman THOMPSON. Well, you see, let's make sure we understand. It is not like that there is necessarily some "smoking gun" in these documents. The concern here is that in these three very detailed, thick notebooks compiled over the course of this investigation, there was a very detailed rendition of what happened and the various steps that were made.

And, obviously, they have to do, in part, with matters in controversy here—a big disagreement between the FBI and the Justice Department on some things. The FBI saw documents being destroyed. They wanted to put a stop to it. You did not think there was sufficient probable cause. We will discuss that. All of that was going on.

So when Congress demands to see documents, and those particular documents that would reveal to Congress this dispute are missing—and that is not to say there might not be other documents in the pack that might indicate the same thing—it would be less likely that Congress would follow up on that. However, we had some staff people who did follow up on that, and putting two and two together and calling these agents up, like Agent Parker, one thing led to another, and we came to find out, yes, indeed, these documents were missing.

So the question is whether or not somebody removed those documents. They would have had to been ripped out of the book. Somebody removed those documents in order not to red flag something with Congress, so that it would be just like the other documents that are put in a big room somewhere and sometimes read and sometimes not, perhaps. That is the issue.

Let me suggest to you this, the Justice Department representatives are in the room, and I am going to give the Justice Department until the end of Thursday for the OPR to come up here and give us a reason, if they choose to, why every Tom, Dick and Harry who has been within shouting distance of those documents should not be subpoenaed before this Committee, and why we shouldn't have a few days of hearings on the chain of custody.

I understand that there are two OPRs, actually. There is a Justice Department OPR and an FBI OPR. Which one is conducting this investigation?

Mr. RADEK. My understanding is that it was referred to FBI OPR with a suggestion that they have DOJ OPR come in with them. I do not know whether that has been done. But that is secondhand knowledge, too. I do not know that firsthand.

Mr. Chairman, if I might, while I am speaking, I did misunderstand your question. I thought you were asking me whether I was concerned about the subject matter of those notes, and that is what

I got renewed concern about only recently. Obviously, I am concerned that there are missing notes in a notebook.

Chairman THOMPSON. Thank you. Ms. Ingersoll understood the question, and I am glad that you do.

Mr. RADEK. And I apologize.

Chairman THOMPSON. Well, I know some of my good friends from Justice—they know who I am referring to—are sitting in the room here today.

Senator LIEBERMAN. Toward the front row, Mr. Chairman?

Chairman THOMPSON. Toward the front row. They have until the end of Thursday, to come and meet with Senator Lieberman and myself, and tell us what they are doing and see whether or not they can come up with a good reason why we should think that another Justice Department and/or FBI internal investigation is something we ought to sit and watch unfold for the next several months while being told, "This is under investigation. We can't tell you anything about it."

Senator LIEBERMAN. Mr. Chairman, if I may. Mr. Iscoe, do you know whether it's FBI OPR or DOJ OPR that is conducting the investigation?

Mr. ISCOE. Senator Lieberman, it is my understanding that the FBI's Office of General Counsel referred this matter to the FBI's Office of Professional Responsibility as soon as they learned about this, because the documents had been turned over to the FBI section of the task force pursuant to the FBI request to comply with the subpoena. So, at that point, I was advised that—by the FBI—that no one else should make any inquiries into this because OPR at the FBI was looking into it.

I do not know what the status was. I did check with the FBI's Office of General Counsel, who said they are encouraging OPR to complete this as quickly as possible—this is FBI OPR. I have no further knowledge of it, Senator.

Senator LIEBERMAN. So is it within your jurisdiction to convey Senator Thompson's request, which I share?

Mr. ISCOE. I will convey it to the FBI, but I would think that it would be the FBI's OPR that would come up and meet with you, and I will be glad to do everything I can to——

Chairman THOMPSON. And the Justice Department's OPR.

Mr. ISCOE. Yes. The last I checked—and Mr. Steele is here. He perhaps can speak to it.

Chairman THOMPSON. Identify yourself, please, sir.

Mr. STEELE. Yes, sir. My name is Charlie Steele. I'm a Deputy General Counsel at the FBI, and everything Mr. Iscoe said and Mr. Radek just said is correct. The matter has been referred internally to OPR within FBI, with the suggestion that if they find this appropriate—that is, if FBI OPR finds it appropriate—to ask for the assistance of DOJ OPR. I know that FBI OPR has started the investigation. I don't know if they have yet asked DOJ OPR to participate.

Chairman THOMPSON. Well, I would reiterate—I want both of them up here in our offices, Senator Lieberman. I think we can do this privately, initially. That's not to say, after we talk, that we are not going to do what we were talking about anyway, in terms of having hearings and subpoenas on this. But if there is a reason to

believe that this thing can be done in a reasonable period of time, in an objective way, then we are willing to at least listen to that argument. But I do not want FBI OPR to come up here and then, a week later, the other one be brought in and I have to schedule another meeting. So it's the end of the day Thursday, if they choose to—I am not going to try to make them come. I am not going to subpoena them. But if they choose to come in and try to convince the two of us that another internal investigation on this matter is the way to go, we will listen to them. OK. Will you deliver that message for us?

Mr. ISCOE. Mr. Chairman, we will both convey that and we will get back to you and Senator Lieberman. We all understand your concern, and that is speaking for the department; I'm sure for the Bureau, as well. We all wish that you had those notes so that we would all know what was in them.

Chairman THOMPSON. Well, I know that most of you do, and I do not have to make allusions to other investigations that are going on right at this time. But we would be derelict in our duty if we continue to sit on our hands. I sat here for a year, hearing things, seeing things in bits and pieces, hearing of documents being destroyed or going missing, investigations not being conducted, things going too slow, people leaving the country, investigators lacking of permission to follow up aggressively on leads and so forth, and I am sick and tired of it. And this may be late in coming, but there usually is a day of accountability and we may just be about to get to that day. Thank you.

Let's get back to the issue of the search warrant. As you know, there was disagreement with regard to whether or not there was probable cause for a search warrant. The issue coalesced, as I understand it, on July 2, 1997. Up until that time, what did the records show? What did we know about Charlie Trie? First of all, we knew all of the things that started the Justice Department in action back in November 1, 1996—November, December, January, February, on up until this time. The newspapers were full of things. They are only newspapers, but if you were investigating anybody else, anything else, you would sometimes have to look at those things, based on anonymous sources, as possible investigative leads.

So, there was a lot of information out there about Mr. Trie, who he was, his friendship to the President, the fact that he was a close associate of Ng Lap Seng—who was himself, shall we say, an unsavory character. There was information concerning Mr. Trie being the one that handled the money for the President's Legal Expense Trust, or a good deal of it. And, also, by then Mr. Trie had fled. I am not sure exactly the date that he did that, but he had fled the country.

So, that is where we started. Then we had a couple of trash covers—on June 24 and July 1. FBI agents said that there was information that they felt was very troubling, that there was information that they thought was responsive—in the second trash cover especially—to the subpoenas that both this Committee and the campaign task force had outstanding during that period of time.

On June 29, you knew that Maria Mapili and two others had removed documents from Mr. Trie's residence to her residence, and you had these four agents here today who believed there then, that there was probable cause. They were concerned that evidence was being destroyed. According to them, Laura Laughlin—their supervisor here in Washington—agreed. According to Ms. Parker, as I recall her testimony, Mr. Biran, a DOJ attorney on the campaign task force, agreed. I think, Ms. Ingersoll, you may have been on vacation up until that time, and you came back along about that time, and you disagreed.

Agent Parker had already flown down to Little Rock under the impression, having drawn up the affidavit and with Mr. Biran making changes after having agreed with her—everybody was under the impression, apparently—that the search warrant was going to be issued. And then she was told that this had been countermanded. In the midst of the discussion over whether or not the warrant would be issued, a call comes in from the FBI in Little Rock, who said a man is taking documents from Mr. Trie's residence, and putting them in a car. They later found out that it was Ms. Mapili's attorney, but did not know that at the time.

But, anyway, they wanted—under exigent circumstances—they wanted permission to stop the car and check, see what he was getting, and your office said no, and overall said no to the search warrant. And, then, Ms. Ingersoll—strangely, this troubles me more than anything else, I think, and I really would like your explanation—on July 7, you apparently wrote a memo. Do you have that handy? When you were recounting this matter, you said the Bureau was very, very keen on doing these searches, but in the end, after much discussion, the case agent and Ms. Laughlin, FBI, conceded that there was no PC, probable cause, for either.

Now, you heard the case agent—I assume you are talking about Parker.

Ms. INGERSOLL. Actually, no; and Agent Parker was correct in assuming that, in that case, I can only have meant Mr. Sheridan.

Chairman THOMPSON. All right.

Ms. INGERSOLL. He was the co-case agent.

Chairman THOMPSON. All right. Well, Mr. Sheridan said that he was never under the impression that there was not probable cause. Ms. Parker said she talked to Ms. Laughlin and, according to Ms. Laughlin's comments to her, she also always believed that there was probable cause. Did these people lead you to believe that they thought, after you argued about it for awhile, that they didn't believe that there was probable cause?

Ms. INGERSOLL. Mr. Chairman, I can only answer that question by recounting the events as they occurred in my experience, if I may do so. The agents did. This incident has to be looked at in the context of an issue that came up a week previously, and that is the Keshi Zhan arrest warrant issue. I will not go into that in detail. The Committee may have questions about it later this afternoon. We will be happy to answer them.

Chairman THOMPSON. You say that matter came up when?

Ms. INGERSOLL. One week prior to the Maria Mapili search warrant issue.

Chairman THOMPSON. I thought that had come up much, much earlier than that.

Ms. INGERSOLL. No. The Keshi Zhan arrest warrant was presented to us—the affidavit was presented on the weekend of June 21 and 22.

Chairman THOMPSON. All right.

Ms. INGERSOLL. The meeting that Ms. Parker described occurred on June 23. It was a meeting that we decided—well, what we had decided at the case attorney level, in consultation with me, was that we didn't believe that there was probable cause to support a criminal complaint against Keshi Zhan because we did not have any evidence that was presented to us from the FBI that she had knowledge of the FECA rules and regulations, that we would have had to prove if, in fact, we had wanted to convict her.

We are not in—at least in my experience, we have not been in the business of arresting people without having valid bases for the criminal charges underlying the arrest warrant.

Chairman THOMPSON. All right. Let's stop there just a second, and then I want you to not lose your train of thought and pick up from there, because I know you are going to another place on that. Do you recall what you had with regard to Keshi Zhan at that time? Clearly, she was being used as a conduit by Mr. Trie; right?

Ms. INGERSOLL. It is my recollection—and I have not reviewed those documents, Mr. Chairman—but my recollection is that we had strong evidence or substantial evidence on pretty much everything except the knowledge.

Chairman THOMPSON. Well, how do you get knowledge, except either a confession or by implication from all of the circumstances? We just convicted a man of first-degree murder in Tennessee last week on circumstantial evidence. He did not confess anything. There was not an eyewitness to it. Here, she is clearly a conduit, clearly a close associate that Mr. Trie is using, who is about to flee the country and who did, in fact, flee the country. Because you could not read her mind, did you feel that this was something you ought not to move on?

Ms. INGERSOLL. Mr. Chairman, there is one important distinction to be drawn between a murder charge and that of the malum prohibitum of a——

Chairman THOMPSON. Yes, murder is more serious.

Ms. INGERSOLL. Absolutely. But, more to the point, as to today's inquiry, we do have to show, in order to prove the FECA violations, that there was a certain level of knowledge of the applicability of the rules and regulations in order to show the requisite criminal willfulness. We do not have to necessarily get into the mind of the actor. It is possible to come up with documents that will do the job.

And, in fact, at the end of this meeting on June 23 that was attended by high-level Bureau personnel, as well as Criminal Division and DOJ personnel, there was a consensus that there would be no arrest warrant because there was a failure of sufficiency of evidence unless the Bureau could go back to its records and pluck from them DNC or other donor cards, I believe is what they were called, which could be attributed to Keshi Zhan and show her willfulness.

Chairman THOMPSON. Once again, you, to me, were demanding the kind of case that you would walk into the courthouse with—obviously, you do not want to operate on flimsy evidence, but you already had documentary evidence. You had documents. You had records showing that she was being paid money simultaneously with the checks that she was writing and she was leaving the country.

You did not have to go to trial the next morning, I mean, that is not a matter of your unilateral decision. What we are talking about here is whether or not we present this to an objective independent magistrate; right? That is the issue.

Ms. INGERSOLL. Well, for the issuance of the warrant, yes, it would have to be sworn to. But, more to the point, if we were to detain her and seek to keep her, we would have to have had a detention hearing. If she were detained, we——

Chairman THOMPSON. And you do not think, under those circumstances, that you would have had the right to detain her long enough to get a warrant, so that an independent magistrate could make the determination?

Ms. INGERSOLL. Mr. Chairman, I think the issue is if we had a criminal complaint, we would have had to obtain an indictment.

Chairman THOMPSON. No, you would not. I mean, you would have needed to have enough evidence that you thought you were certainly leaning in that direction. There is no question about that. But there is no rule that says, under those circumstances, that you have to indict anybody.

Ms. INGERSOLL. If we want to keep her in jail and not dismiss the complaint.

Chairman THOMPSON. Well, whether she is in jail or not—ultimately, you would have to make a decision.

Ms. INGERSOLL. Mr. Chairman, it was my understanding that one of the key motivating factors for these agents was to do just that, to detain her so that she would not leave.

Chairman THOMPSON. Well, then, under those circumstances, if she had skipped bond, in effect, then that would have added a little bit to the case; wouldn't it?

Ms. INGERSOLL. Mr. Chairman, at the time, other information that we had before us indicated that she had every expectation of coming back.

Chairman THOMPSON. Do you know when she came back?

Ms. INGERSOLL. She came back in time to be deposed by this Committee's staff, in mid-August, I believe, and it was my understanding that that was by prearrangement; that is, that her plans had been to——

Chairman THOMPSON. What evidence did you have that she was going to come back? You acknowledge that there was strong evidence that she was about to leave, right?

Ms. INGERSOLL. It was my understanding from the agents that she had put in for leave from her place of work for a set period of time.

Chairman THOMPSON. At that time, did you know whether or not Mr. Trie had already left?

Ms. INGERSOLL. I don't recall.

Chairman THOMPSON. Others were leaving on a fairly regular basis all through that year. Was that part of the discussion at all?

Ms. INGERSOLL. I don't recall.

Chairman THOMPSON. All right. You were leading up to another point before I interrupted you, so go ahead as you choose.

Ms. INGERSOLL. The point is, Mr. Chairman, as to this particular issue, that the decision was not left simply to me. It was not simply left to Mr. Radek. It was a decision that was made, as awkward and cumbersome as the process was, it was made by consensus after the agents had every opportunity to pitch their very best case to their management, as well as ours. They did so; and, frankly, I think they did a truly commendable job, but the consensus was that we were right as to whether there was sufficient basis to obtain the arrest warrant.

Chairman THOMPSON. Consensus of whom?

Ms. INGERSOLL. The consensus of Mr. Richard; Mr. Litt; Mr. Gangloff, in addition to Mr. Radek; the two case attorneys, Mr. Corcoran, Mr. Biran; myself; Bob Bryant; Neil Gallagher; Larry Parkinson, the counsel to the FBI; Mr. Lampinski, who was heading the FBI contingent; and Ms. Laughlin; and, also, Harvey——

Mr. RADEK. Richikoff.

Ms. INGERSOLL. Richikoff.

Chairman THOMPSON. What is that, about 15 people you had to make this decision? I mean, how many people——

Ms. INGERSOLL. Mr. Chairman, I referred to this as sort of an en banc appeal that we made available to the agents; and, yes, we sat in——

Chairman THOMPSON. Well, you also said in your memo that Mr. Sheridan and Ms. Parker agreed with you, and they said that—or Mr. Sheridan agreed with you, and he said that is not true.

Ms. INGERSOLL. Mr. Chairman——

Chairman THOMPSON. You said Ms. Laughlin agreed with you, and Ms. Parker said that is not true. You mentioned Mr. Biran. Ms. Parker said Mr. Biran agreed with her. So, I guess it is in the eye of the beholder, perhaps, as to whether or not there was a consensus. What clearly happened was that everybody connected with the FBI thought you should go forward and everybody connected with the Justice Department thought you should not.

Ms. INGERSOLL. Mr. Chairman, are you talking about the Keshi Zhan arrest?

Chairman THOMPSON. No. I am talking about——

Ms. INGERSOLL. This meeting that I was talking to you about was the Keshi Zhan arrest warrant issue.

Chairman THOMPSON. I am sorry. I was moving on to the search warrant issue.

Ms. INGERSOLL. I understand.

Chairman THOMPSON. I am sorry.

Ms. INGERSOLL. And the reason I wanted to impress upon the Committee that we had used this appeal process, cumbersome as it was, was that Agent Parker and Agent Sheridan knew that this process was available, and if they had had the questions and concerns in their minds that it appears they did have at the time about the Maria Mapili and Charlie Trie residence search war-

rants, they had every opportunity to use that appeal mechanism. Again, they did not.

Chairman THOMPSON. Excuse me. Mr. Radek, were you or Mr. Richard or Mr. Litt ever in a meeting with any of these FBI agents here today to discuss any of these matters; do you recall?

Mr. RADEK. I believe I was at the meeting discussing the Keshi Zhan arrest. I do not recall meeting with any agents on the Mapili-Trie search warrants.

Ms. INGERSOLL. There were, however, Mr. Chairman, numerous—Mr. Richard's weekly meetings that continued. There was a briefing to the Attorney General.

Chairman THOMPSON. What you are saying is they could have gotten into those meetings if they had wanted to.

Ms. INGERSOLL. Yes, exactly.

Chairman THOMPSON. All right.

Ms. INGERSOLL. Exactly.

Chairman THOMPSON. I take your point, but let's get back to the issue at hand. It is certainly understandable that different people and different sets of people can have different views in terms of probable cause. But, within the context of all that was going on here, would you like to take the opportunity to explain your reasoning in light of what the FBI says was evidence being destroyed? Why did you not put to an independent magistrate the question of whether or not there was probable cause for a search warrant?

Ms. INGERSOLL. Mr. Chairman, the first thing I would like to do is draw the Committee's attention to the actual affidavit that was before us, because there has been a lot of discussion today about what the agents thought or knew or believed, and what they thought that we knew or believed. But, in fact, as best we can tell, the version of the various affidavits that have been turned over to the Committee, that is, the one that was an issue on July 1, or at least the early morning of July 2, is the one numbered 5 on the inventory of documents provided to the Committee yesterday. It is Bates numbers DOJ00173 through 00196, and it has a cover sheet that says——

Chairman THOMPSON. I have it.

Ms. INGERSOLL. In fact, I believe it is in your book. And, as best we can tell or recollect, this is the affidavit that was presented to us, that I had before me on the morning of July 2, and it is the first time that I saw it.

Chairman THOMPSON. I was under the impression you were beginning to review the affidavit the night before.

Ms. INGERSOLL. I believe that that task was given to the case attorney, who was much more familiar with the case and who, in the normal course, would have been the first line.

Chairman THOMPSON. And who would that have been?

Ms. INGERSOLL. Jonathan Biran.

Chairman THOMPSON. Who I have been calling Baron all this time?

Ms. INGERSOLL. Yes.

Chairman THOMPSON. All right.

Ms. INGERSOLL. And if you would turn to pages 11 through 13 of this affidavit, the first thing I will point out is that at the bottom of 13—or actually the top of page 14—this affidavit ceases being a

Trie-Mapili search warrant affidavit and continues in its original vein, which is that of the Keshi Zhan arrest warrant affidavit. In other words, the agent quite sensibly took the Keshi Zhan arrest warrant affidavit and used that as sort of a template for producing the search warrant affidavit. She had only gotten partway through it as of the morning of July 2, a time when the documents—the summaries that have been submitted to this Committee—suggest she was on her way, with an affidavit in hand, to present it to a magistrate. As far as we were concerned, there was nothing near a final affidavit.

The second point I want to make is that the documents at issue are described on pages 11 through 13, and it is those descriptions that are the only thing that we had before us in order to make our decision.

Chairman THOMPSON. What descriptions?

Ms. INGERSOLL. The descriptions of the documents that are on pages 11 through 13. That is all we knew about what had been obtained in the trash cover. It is certainly my practice to rely on the agents to present their very best case to support probable cause in an affidavit, and it is our jobs as attorneys to help them do that.

The fact is that I did not, and I do not believe any of the attorneys on the task force, actually saw any of these documents until Mr. Biran and Ms. Parker traveled to Little Rock on August 1 to review the documents. We did not have copies of these. So, on their face, as far as we could see, there was no—to use the Chairman's term—smoking gun in these documents.

Chairman THOMPSON. Well, excuse me. We are not talking about trying to electrocute someone. We are talking about trying to get something to an independent magistrate to make a determination. It bothers me when you talk in terms of a smoking gun. There has to be probable cause. You do not do it lightly. These people were clearly—I mean, even you have to acknowledge—were destroying documents that were relevant. Let's just leave it at that point for this time. But it does not have to be a smoking gun.

In fact, that reminds me of what Ms. Parker said, that you told her that you had to have probable cause to convict in order to issue a search warrant. Did you actually say that?

Ms. INGERSOLL. Mr. Chairman, I cannot imagine having said that.

Chairman THOMPSON. I know you know better than that.

Ms. INGERSOLL. One of the members—and I certainly do not recall having said that.

Chairman THOMPSON. Well, it is not true; is it?

Ms. INGERSOLL. Absolutely not.

Chairman THOMPSON. All right.

Ms. INGERSOLL. And the members pointed out that there were either two options; either I got it wrong or I did not know the difference. I suggest that there is a third option, and that is that it was incorrectly heard.

Chairman THOMPSON. Incorrectly what?

Ms. INGERSOLL. Heard.

Chairman THOMPSON. Heard?

Ms. INGERSOLL. Or understood by the agent. By the way, I have the same response to the suggestion that Mr. Yaffe would have misstated the basis for issuance of a search warrant.

Chairman THOMPSON. Well, there is an awful lot of that going on. There is an awful lot of misunderstanding on the part of the agents, sufficient that a man in the Bureau for 25 years, for the first time in his career, would write his director.

Ms. INGERSOLL. Mr. Chairman, may I point out that I have never seen Mr. Smith before today. I have never met him and I have never had any conversation with him. I had had a passing conversation with Dan Wehr and met him once.

Chairman THOMPSON. All right.

Ms. INGERSOLL. If I may continue, Mr. Chairman. When I said smoking gun, I meant that there was nothing that we saw, in reviewing this draft affidavit, that indicated to us that any of these documents that were being discarded was anything incriminating. I certainly concede that, on their face, they appear to be relevant in that they pertain to the businesses of Charlie Trie and to certain persons with whom we had good reason to believe Mr. Trie was associated.

Chairman THOMPSON. Well, you had subpoenaed documents relating to Mr. Trie's businesses, travel, and financial transactions, had you not?

Ms. INGERSOLL. We had, sir, on the date after the first of the trash covers, that is.

Chairman THOMPSON. Well, I am talking about June——

Ms. INGERSOLL. June 27.

Chairman THOMPSON. About June 27, and now we are talking about a consideration of July 2.

Ms. INGERSOLL. Yes, but if you look at paragraph 35, beginning at the bottom of page 11, those items, although the date of the trash cover is not specified here, are from the June 24 trash cover, 3 days before the subpoena was served, and at a time when Ms. Mapili had no reason to believe that the Justice Department was going to be seeking documents.

Chairman THOMPSON. Well, let's think about that right now. Ms. Mapili, before you issued the subpoena—what can I say about that? After all that was going on—I think Mr. Trie had fled the country. Somebody correct me if I am wrong. He had already fled the country; it was all over the newspapers. And this probable cause you find to be insignificant—or insufficient, I should say—includes the statement in this affidavit, "The trash cover indicates that Maria Mapili is and has been destroying documents relating to Yah Lin Trie's businesses, travel, and financial transactions."

I think most scholars will tell you that if Richard Nixon had destroyed the tapes even before they had been subpoenaed, he would have had a little bit of a problem. Do you think she really had no reason to not be throwing out or tearing up and destroying these kinds of things, not to mention the fact that this Committee had already subpoenaed these documents? You were aware of that; weren't you, at that time?

Ms. INGERSOLL. Mr. Chairman, I was aware that this Committee had issued subpoenas. One of the local papers here in Washington listed, on February 14, I believe, about 52 subpoenas that had been

issued by the Committee the day before. Mr. Trie's businesses were among them. My recollection is Ms. Mapili was not by name, although Mr. Trie's businesses, as I say, were. That subpoena had been issued and, presumably, as far as I knew, served for 4½ months prior to our consideration of this affidavit.

I had not seen any subpoena that had been served on Ms. Mapili. I did not know that any Committee subpoena had—whether or not it had been served on her. So our concern was—given the 4½-month passage of time, our concern was with her response to our grand jury subpoena.

Chairman THOMPSON. You thought this Committee had issued a subpoena 4½ months ago. We really do not know what is in it. We are not going to look. We are not going to ask. She is obviously destroying documents having to do with business records of this man who had fled the country, etc., all in the newspapers. And, so, you felt that was insufficient because you did not have your own subpoena out there.

So let's go to after you had your own subpoena out there. You subpoenaed these documents—basically campaign finance documents—on June 27.

Ms. INGERSOLL. Correct.

Chairman THOMPSON. And this affidavit mentions several documents pertaining to the trash search on July 1. So, this is a few days after you issued your subpoena.

Ms. INGERSOLL. It says that three documents—or three sets of documents were—that the agents believed were relevant——

Chairman THOMPSON. Well, the department has redacted parts here, so we do not know what is——

Ms. INGERSOLL. If you look at the bottom of page 13, there is another heading, and I can represent to you that what is at the top of page 14 is not——

Chairman THOMPSON. Not relevant.

Ms. INGERSOLL [continuing]. Is not among that list.

Chairman THOMPSON. Let's look on page 13. What they said they were getting from the trash covers—the trash cover on July 1—is the following documents: (A) a 1995 Daihatsu financial statement, which had been ripped into pieces; (B) a fax cover sheet indicating that the Daihatsu financial statement described in the preceding paragraph had been faxed in April, 1996 to Antonio Pan; and (C) approximately nine crumpled check carbons relating to Daihatsu's account at First Commerce Bank, Little Rock, Arkansas.

And, then—of course, I think it would be fair, at least at that point, to go back and look at what has been destroyed in the past whether or not you have a subpoena outstanding. You are entitled to not be oblivious to the fact that in the previous trash cover, that they had discovered a check register for a bank account with the name of Daihatsu; and a Federal Express package, empty, indicating it had contained a two-pound package sent by the White House Office of Administration on May 5, 1997.

Ms. INGERSOLL. Mr. Chairman, I would suggest that that comparison of——

Chairman THOMPSON. And then there are eight or nine other items of probable cause that they have listed. Excuse me. Go ahead.

Ms. INGERSOLL. It might actually suggest that she had not changed her pattern——

Chairman THOMPSON. I will agree with that.

Ms. INGERSOLL [continuing]. While she received the—once she was on notice. I will point out that there is nothing in this description—and I cannot recall specific conversations that we had, and I daresay the agents cannot—but I would have asked what is it about this 1995 Daihatsu financial statement—that is, apart from the fact that it is a business record or a business document coming out of that address—what is it that gives it some particular probativeness in this case? What is it about the fact of the cover sheet and the nine check carbons? Who are those checks to? What do they have on them?

Although we did not know about it at the time—in other words, we did not know what the documents were. The agents did not present to us—did not bring us, as we would have wanted to see, what those documents actually were. And now I find—because I never saw the trash cover production until my preparation for my appearance here today. If the Committee looks at the production that the department has made of the trash cover documents, and it is the set of documents labeled SWCT–2–0520, I find that the descriptions of the items that I see in this trash cover production are—I would have wanted them to be fuller and more complete; and that, in fact, I do not find in this package nine copies of check carbons. I find one and some other personal checks of Maria Mapili.

So we did not have anything to go on, other than this. That fact, coupled with the fact that the search warrant affidavit was far from being finalized in a sufficient state to be presented to a magistrate——

Chairman THOMPSON. Well, it was not a matter that it just needed a little tweaking. You turned them down. You heard the testimony that Mr. Biran was the one doing the tweaking, and when Ms. Parker caught the plane to Little Rock, she felt it had been tweaked sufficiently.

We can argue over how extensive the probable cause is. All I know is you had a 23-page affidavit listing a laundry list of stuff before your subpoena—after our subpoena, but before your subpoena—and listing another group of things after your subpoena having to do with the business records and other things of this individual, who was a very high priority as far as all these investigations were concerned. This was very sensitive, Trie was a friend of the President, and you had your FBI agents, the entire contingency, telling you these people are destroying documents. But you were making a contrary decision. What is done is done. We do know more now, and you are not to be held to this, I know that. But we do know now—just as we know that an FBI request relating to Wen Ho Lee was turned down by another group over in the Justice Department for lack of probable cause, after which he may have deleted files on his computer—we do know now that we finally came up with a cache of documents pursuant to the search warrant in October. And we found that Ms. Mapili apparently acknowledged that, yes, Mr. Trie told her to destroy documents and

she did that. I just find it, in the context of things, impossible to support.

Ms. INGERSOLL. Mr. Chairman, may I make one more point as to that? And that is part of the great difficulty in dealing with this particular search warrant affidavit is that it truly was one of the very few things that if the agents presented to us, that we turned down. My posture and the posture of my supervisors, and certainly the posture of the attorneys on the task force who were working with me was to support the agents in virtually any investigative tack that they wanted to take, so long as it was lawful and so long as it did not run afoul of the Independent Counsel Act.

This was a very difficult call, and I did not make the decision myself. We took it up the line. The agents had the option to appeal it, and the various other—in fact, events that unfolded pertaining to the attorney who showed up to take custody of these documents.

Chairman THOMPSON. Let me ask you one other area here, and I need to correct something I think I said earlier, that Keshi Zhan did not come back until our investigation was over with. That is incorrect. My staff informs me that—you are right—she was interviewed on August 14, 1997. She did not tell the truth and was therefore was not helpful.

But on the business of the trash cover that produced the documents that had to do with the President's Legal Expense Trust, on July 29, there was a trash cover that produced such documents. I understand Ms. Parker came to the meeting at the Department of Justice. She remembers you, Ms. Ingersoll, Mr. Biran, and perhaps others. The testimony has been, generally speaking, that you did not feel like this was a matter within your jurisdiction or your interest. There was apparently also a discussion at that point about the significance of threatening a subpoena issued by this Committee and whether or not what they were doing would constitute obstruction of justice—what the potential defendants were doing.

Now, I have generally characterized all this in order to get us into this discussion, and you can recharacterize it however you wish. What do you recall about it?

Ms. INGERSOLL. I simply—I actually do not have much, if any, recollection, Mr. Chairman; but my own records shown that a meeting did occur. I was present, as well as Jonathan Biran, and Eric Yaffe, another experienced attorney in the task force. Ms. Parker was present, and the meeting was held by Mark Richard. I believe Mr. Radek was on vacation. And there was a discussion of Mr. Trie. We had determined some time earlier that the PLET incident, in and of itself, did not give rise to violations of Federal criminal law. So that, in and of itself, was not—would not provide a basis for a search warrant?

Chairman THOMPSON. What did not?

Ms. INGERSOLL. The PLET.

Chairman THOMPSON. Oh.

Ms. INGERSOLL. The Presidential Legal Expense Trust. Perhaps Mr. Radek could address how that issue came about.

Mr. RADEK. With respect to that issue, Mr. Chairman—and there was lengthy discussion between various people in the department and the Bureau. The problem was, of course, that the Federal Election Campaign Act did not apply to contributions made to the Pres-

idential Legal Expense Funds. As we looked at the kind of conduct that was being examined, it was foreign contributions, conduit contributions, the kind of things that would constitute a Federal crime if they were campaign contributions. But, because they were not campaign contributions, they were not covered by that law, and so we could not see an offense.

We expressed that legal opinion early and often. It was discussed ad nauseam. There was some disagreement with that in the Bureau, and, in fact, they continued to investigate aspects of that. It is my opinion, contrary to the testimony earlier, it is my recollection, rather, that those documents were called for in our subpoena, but, obviously, they were in the Senate subpoena.

Chairman THOMPSON. I think you may be right about that. I think she may have been in error about that. I looked at it—it has been awhile, but I do not think your subpoena called for this.

Mr. RADEK. Could I say, generally, Mr. Chairman, with respect to this Committee's investigation, we were aware of the investigation and we were desperately looking for crimes to accuse these people of and bring them to justice. We viewed any obstruction of this Committee's investigation as an opportunity to advance our investigation. And, in fact, at an earlier point—I believe it was in March—we contacted counsel for this Committee, Mr. Madigan, and Harry Damelin came over, and we notified them that, in another matter, we found documents that were being destroyed that were pursuant to this Committee's subpoena.

We would have done that again here, I am sure, had we known the specifics. That was a practice that I think we established at an earlier time. In fact, I remember a conversation with Mr. Madigan in which I told him I thought that this Committee's work was very serious and could probably accomplish more than a criminal investigation could because of the inadequacy of the campaign laws and the fact that we really did not have a hammer over the people that we were investigating and we were going to have a lot of trouble getting them to cooperate.

Chairman THOMPSON. Well, I know what you are talking about. But when you describe the previous instance, where people were destroying records pursuant to our subpoena and you came up here and told us about it, you have got to understand that the way you conducted yourself with regard to the Charlie Trie situation makes it look even worse because that other individual was not a good friend of the President, right?

Mr. RADEK. I do not know.

Chairman THOMPSON. With regard to the much less significant character in this investigation—you told us about that, but you did not tell us about this, and that is extremely troubling. At least, by this time, Ms. Ingersoll, July 29, you knew all about this Committee's subpoena; did you not?

Ms. INGERSOLL. That is not correct, Your Honor—I mean, Mr. Chairman. I do not know whether the Chairman would consider that a promotion or not. No, I do not recall ever having seen this Committee's subpoena with respect to Ms. Mapili, in her role as custody—custodian of records for Charlie Trie, whether by name or not. I do believe that at the beginning of this search warrant matter, at the end of June and early July, that an agent represented

to me that there had been such a subpoena, but he did not know what it contained or whether it had, in fact, ever been served on Ms. Mapili.

At the end of July, when I directed Jonathan Biran to travel down to look at not only the search—the trash cover production—but also to look at the—to examine the documents that had been produced to us, pursuant to our grand jury subpoena, at that time, I still had not seen this Committee's subpoena. I believe that the Committee has received something that looks—it does not have a Bates number on it, Mr. Chairman. It is a fax cover sheet with a letter, and attached is this Committee's subpoena to the custodian of documents at Daihatsu. It has some indication that it was received by the U.S. Marshals Service in Eastern Arkansas.

As best as I can recall, the first time I ever laid eyes on this was earlier this week or last week, when I reviewed what the department had turned over to the Committee. The cover sheet indicates that it was faxed by Dan Wehr to Roberta Parker in Washington. It, therefore, is apparent to me that at least as of the afternoon of July 25, Ms. Parker was aware of the specific terms of the agreement. I have asked Mr. Biran, and he does not recall having ever seen this subpoena.

The reference in my handwritten note,[1] which has been turned over to the Committee, dated Monday, August 4—reflects a conversation that I had with Jonathan Biran when he came back from Little Rock and described to me what had been—what he and Ms. Parker had found in the production—in the trash cover documents down there.

Mr. Biran's analysis was notable in two respects. First, he told me that there were material items, according to my note, that had not been discarded by Ms. Mapili, according to the trash covers, but were nonetheless not only very material to a case against Mr. Trie, but on their face were relevant. They were a handwritten ledgers with notations showing political donations and wire transfers in and payments out and even amounts, precisely the kind of evidence we had been looking for, and it was turned over in response to the grand jury's subpoena.

Mr. Biran also pointed out that the PLET check copies that were there had been, in fact, turned over to us. Frankly, Mr. Chairman, it seemed to make sense to me that if Ms. Mapili had turned over PLET checks that were not responsive to our grand jury subpoena, that she surely would have turned them over to this Committee when they were specifically called for in your subpoena.

Chairman THOMPSON. Well, I cannot follow all of that, but I would like to get back to my original question. Are you denying that, on July 29, Ms. Parker attended a meeting with you and the others on this July 29 trash cover, about the PLET documents? You remember that—so far, you remember that conversation—don't you?

Ms. INGERSOLL. I do not.

Chairman THOMPSON. You do not remember that?

Ms. INGERSOLL. A conversation with——

[1] The memo referred to appears in the Appendix on page 134.

Chairman THOMPSON. Well, do you recall her testimony that you talked about the Senate subpoena at that time?

Ms. INGERSOLL. I recall her testimony, yes.

Chairman THOMPSON. But you do not recall the fact that you knew anything about the Senate subpoena?

Ms. INGERSOLL. I believe, based on—certainly based on this notation of August 4, that I had been told that there was a subpoena. I have no recollection of ever seeing that or knowing its contents.

Chairman THOMPSON. Well, it looks to me like that everybody in the Justice Department was studiously avoiding trying to look at it. Mr. Wehr said he had seen the subpoena before July 1; Ms. Parker, by July 29, as I recall. And everybody knew that there was such an animal out there long before that, and you said it had been in the newspapers and everything else, and that this notation was August 4 and your handwriting presumably says, "PLET documents, we do have"—with an exclamation point—"even though not responsive to us, just to Senate."

Mr. RADEK. Mr. Chairman, I think there is an earlier entry from Ms. Ingersoll's log where she instructs somebody to get the Senate subpoenas. I believe it is around August 1.

Ms. INGERSOLL. It is a notation—I do not have the Bates stamp—but it is a note that I wrote during the course of a Trie team meeting, and the Committee has indicated it is aware the Trie team was one of the teams of agents—was denominated that way because it was working on the Charlie Trie matter. During the course of that meeting, I wrote down, "Get Senate subpoena"—paren—"Check with Wehr"—W–E–H–R, Dan Wehr, "first." And below, down a little bit, "Go to Little Rock this week," and then, "trash cover analysis."

So, clearly, there was discussion of this Committee's subpoena. Mr. Chairman, I do not recall ever having seen it.

Chairman THOMPSON. What would you have been thinking? Let's assume for a moment Ms. Parker is correct, and this would certainly be consistent with what you just said that on June 29, you got this trash cover and the FBI thinks it is relevant to their investigation. I can see the point that you make with regard to that. I think they certainly raise a good point. If somebody is using a straw man for one purpose, you might use that as evidence for a straw man for another.

But let's say, for the purpose of argument, that that's a secondary, weak argument and you are not primarily concerned with the President's Legal Expense Trust. Even if we accept that, then Parker tells you that the Senate subpoena is out there and they are asking basically for the same things. They ask for PLET documents, and she discussed whether or not it would be obstruction to destroy them. I cannot understand how it cannot be obstruction, how it cannot be a violation of the law, if Ms. Mapili was destroying and discarding the President's Legal Expense Trust documents when we have subpoenaed Presidential Legal Expense Trust documents. That is a violation of the law.

And you were being informed—the FBI was being informed of this. You were obviously being informed of it. August 1, you say, "Let's get a copy of the subpoena." Then, August 4, you make a determination that PLET documents are not responsive to you, but

they are responsive to the Senate. This is your handwriting. Now, my question to you is in view of the fact that they were destroying documents responsive to the Senate, why didn't you do something about it?

Ms. INGERSOLL. Mr. Chairman, we had already received those documents and I had every reason to believe that they had also been produced——

Chairman THOMPSON. What do you mean, you already received those?

Ms. INGERSOLL. That the documents——

Chairman THOMPSON. Are you saying that you had received all the PLET documents the FBI says they were getting out of the July 29 trash cover?

Ms. INGERSOLL. No. I'm sorry. I think I mis-spoke. I do not think we did see——

Chairman THOMPSON. No. If you had those, they would not be up there in your office talking about the significance of them.

Ms. INGERSOLL. I frankly do not recall when we received them. I believe that is why I sent Mr. Biran——

Chairman THOMPSON. Well, let's just say hypothetically, don't you see our concern with what you are saying here today? We spent a year of our life trying to get to the bottom of this. Everybody pays lip service. "Oh, you have been doing a wonderful job, a contribution to America. You work this side of the stream. I'll work the other side; and together, we will do justice." And we find that this is going on. Did you know that this July 29 conversation was the day before this Committee had hearings on the President's Legal Expense Trust?

Ms. INGERSOLL. I am sure, at the time, I knew.

Chairman THOMPSON. We started our hearings on the President's Legal Expense Trust on July 30, and had, as I recall, a couple of days of testimony about that—while all this was happening. So, if you were told that they were destroying documents that might in any way be relevant to what we were trying to do over there, that is a criminal offense, an apparent criminal offense. You are a law enforcement officer. But not only are you not willing to let the FBI do anything about it, you do not even tell us about it. How can you defend that?

Ms. INGERSOLL. I do not——

Mr. RADEK. Mr. Chairman, if I might.

Chairman THOMPSON. You just hold your horses a minute.

Mr. RADEK. This enlightens this question, though.

Chairman THOMPSON. But I am asking her, then I will ask you.

Mr. RADEK. Yes, sir.

Chairman THOMPSON. Yes, ma'am?

Ms. INGERSOLL. I believe that what Jonathan Biran was looking at in Little Rock was what had been produced to us, and that—and I believe that we had had those PLET checks produced to us. And, therefore, I would have assumed and believed that they had also been produced to this Committee. These were not originals. These were photocopies, as far as I know. I do not know what the analysis was as to the individuals named on those checks.

Chairman THOMPSON. I asked you a little while ago, when you say that your task force already had these documents that were

coming from the July 29 trash cover—the PLET documents. And I thought you had originally said that, and then you said that you did not think you were saying that. Now I believe you are saying it again.

Ms. INGERSOLL. I am saying——

Chairman THOMPSON. Why would the FBI be up there talking to you about this most recent trash cover and its significance if—maybe they were out of the loop. I mean, you did not see the Senate subpoena. I assume that perhaps you did not see all the documents that were coming from the trash covers, either.

Ms. INGERSOLL. I did not see any of them.

Chairman THOMPSON. Well, what was—all right. Mr. Radek?

Mr. RADEK. I am sorry, Mr. Chairman, but if you will look at Ms. Ingersoll's note, it says that Mr. Biran, in his communication with her, said we do have the PLET documents. Mr. Biran was down there, and I have learned this subsequently in preparation for this hearing. Mr. Biran was down there comparing the subpoena documents with the trash documents. He found that they had produced the PLET documents to us even though they were not responsive to our subpoena.

Now, I am assuming—I have no reason to—I was not in on this decisional loop. But I am assuming that he presumed from that that they had probably been produced for the Senate. There was a failure here to quickly compare what was trash with what was produced, and Special Agent Parker communicated that to Special Agent Wehr, and eventually, it was done. There is a document, a letterhead memorandum of July 25, listing documents, and it turns out that a lot of documents that were being trashed, which would give you a presumption that there was evidence being destroyed were copies of documents that were also produced. That watered down probable cause a lot, Mr. Chairman.

Chairman THOMPSON. Well, we will go back and talk to the relevant people, and if that is the case, then so be it. I see your point. Of course, you obviously have to jump through a lot of hoops to get to there. On the one hand, they are not producing documents that they are supposed to, and trashing some of them, and still have some of them there when you execute the search warrant. But, on the other hand, they are producing documents that they are not supposed to, and the FBI does not know about it. We will see.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman. I am going to be relatively brief, because the Chairman has covered a lot of ground. I presume the both of you would agree that the Chairman's questions were quite thorough.

Mr. RADEK. Yes, sir.

Senator LIEBERMAN. Let me just go back to the beginning. You both indicated for the record that you are career Justice Department attorneys, and I believe, Mr. Radek, you may have made a blanket statement on this, but I just want to put it on the record. Did either of you, at any time, have conversations with anyone outside of the Justice Department—White House, political people, generally—either conversations or communications relating to your conduct of the matters that we are considering here?

Mr. RADEK. I believe we probably both—I know that I did—have certain discussions with White House counsel about document production.

Senator LIEBERMAN. Just clarify a little what you mean.

Mr. RADEK. I mean, we were obtaining voluntary production of documents, and, in some cases, subpoenaed documents from the White House and its various offices. At one point, there were many outstanding subpoenas and conversations with White House counsel and various members of White House Counsel's Office took place about the timing, the nature of the production. There were also discussions we had with them about interviewing White House staff and going through White House Counsel's Office that I think is referred to in Mr. Smith's memorandum.

Senator LIEBERMAN. And that is the extent of it. Your answer to my question would be, no, you had no conversations except for the ones you have just described.

Mr. RADEK. That is correct for myself.

Senator LIEBERMAN. How about you, Ms. Ingersoll?

Ms. INGERSOLL. That is also true for me, Mr. Lieberman.

Senator LIEBERMAN. So that, just to be explicit, for instance, even in the White House Counsel's Office, no one discussed with you any of the decisions that have been the subject of this inquiry; for instance, the judgment about the sufficiency of the FBI affidavit requesting—for the search warrant.

Ms. INGERSOLL. Absolutely not, Senator.

Mr. RADEK. Absolutely not.

Senator LIEBERMAN. I mean, notwithstanding that, as I said earlier, I think Senator Thompson covered this fully. Personally, on the search warrant, and respectfully, I think your judgment here was in error, and I think we have hindsight—but because of all that was involved in this case and because of the nature of the evidence that had been uncovered in the trash cover, and you know this stuff follows a pattern. I mean, it is old material related to the subject of the grand jury, subject of the Senate committee, it just arouses so much suspicion that it seems to me that it would have been very much the better part of wisdom and always to have at least taken the case that the FBI brought you to the magistrate to decide on that search warrant.

I do not know whether you want to respond to that. But that is my personal conclusion.

Mr. RADEK. Thank you, Senator Lieberman, and I would like to briefly describe my role in this process.

I received a call on the morning of July 2 from two of my attorneys, Laura Ingersoll and Bill Corcoran. Bill Corcoran, despite what you have heard about him here today, is a senior prosecutor. He is a career Criminal Division guy. He has been a Deputy Section Chief in the Narcotics section. He was working on the House Bank Task Force as it wound down and came over to the Campaign Finance Task Force from that.

While his demeanor may be a little sneaky, and I am sorry it offended Agent Sheridan, he is a very effective questioner, and I think you will find that his conduct in the handling of that witness was found to be appropriate by our Office of Professional Responsibility.

That aside, when I received this call, two of my attorneys, whose judgment I respected, were saying that they did not believe there was probable cause, they faxed me the affidavit, and the thing that struck me about the affidavit was its incompleteness, and we discussed that. And the problem was this: The connections that needed to be there, in our opinion, to make probable cause were not there.

And I was, I must confess, sort of offended by the way it tended to mislead the reader and was tending to mislead a magistrate. For instance, all of the—if you did not read the dates carefully, you might believe, as I believe Members of this Committee may have believed, that all of those documents on the long list were thrown out after they were subpoenaed. They were not.

Now, you can make an obstruction case without a grand jury subpoena, but those documents better be incriminating. You better be able to show that they were thrown away to get somebody off of the hook. These documents were not terribly incriminating. They were relevant because they showed Charlie Trie's association with businesses and individuals.

Senator LIEBERMAN. Right.

Mr. RADEK. But the fact that they were not subpoenaed, I think those documents did not, in any way, establish probable cause of obstruction of justice. Now, you asked me today could they have tended to prove election finance crimes?

Senator LIEBERMAN. Right.

Mr. RADEK. I have to say the answer is yes. But the discussion surrounded, and my understanding was the agents were really primarily focusing on, and I must confess I was focusing on, obstruction of justice. I think that was a valid thing for me to focus on because what we are doing here is conducting a search, an extraordinary means of obtaining evidence. We conduct searches when we believe there are extraordinary needs for it, such as evidence being destroyed.

If there is obstruction of justice going on, that is another reason to do a search, even for the underlying crime.

Senator LIEBERMAN. Right.

Mr. RADEK. If there is not, you can accomplish the same thing with a subpoena. So I must confess that was probably on my mind, although I am reconstructing at this point.

Senator LIEBERMAN. Let me ask you a somewhat——

Mr. RADEK. If I might just finish.

Senator LIEBERMAN. Oh, go ahead.

Mr. RADEK. With respect to that other small group of documents that were obtained in the trash afterwards, check carbons, to me, were not the kind of records called for in our subpoena, and I could understand why anyone would throw documents away or would throw away carbons, especially ones that were not readable at this point, and not realize that they were throwing away something that we might be interested in. And obviously they can be a source of evidence. But I do not think it is obstruction of justice for someone to throw away check carbons, even though documents relating to businesses have been subpoenaed.

So some of that was going through my mind. I wanted that straightened out. And I recall a conversation with the attorneys,

going down the list of documents as to whether they were incriminating or whether they were not or what they tended to prove. And there was very little that could be said that these documents were tending to prove.

Most importantly, I think, from the obstruction of justice standpoint, when you serve a grand jury subpoena on someone, and you are doing a trash cover and surveilling, as we were, if there is obstruction of justice going on, you can expect some extraordinary activity, like a lot of documents hitting the trash immediately after the grand jury subpoena. We seem to have the opposite here. We seem to have just a few documents. And, in fact, in that July 25 correspondence, it says that there were almost no relevant documents.

Senator LIEBERMAN. What about the Senate subpoena, which was issued in March? And it seems to me that at the time of the FBI affidavit asking for the search warrant, there is some basis for making an obstruction case against Ms. Mapili, based on our subpoena. And I am wondering why no effort was made, since there was a general knowledge that we were at work and, in fact, what we were working on, to locate the Senate subpoena and to relate the possibility of a search warrant to obstructing our investigation?

Mr. RADEK. Well, I think that the note indicates that there was some effort to do that subsequently. At the time of the issue being presented to me on probable cause, I must confess my recollection now is that I was not focused on a Senate subpoena at all. And I do not know why, except that it might not have been communicated to me, and I do not know whether I was aware of it. I am sure I had not seen it until I was preparing for this hearing.

There are some legal problems with an obstruction case on a Senate subpoena, one of which is we would have to know when the documents were created. Now, I see some of these are dated at a time well before the Senate subpoena. But it would not be obstruction of justice for someone to destroy a record that was created the day after the Senate subpoena was complied with, if it was a newly created record, because the subpoena cannot subpoena records that have not been created yet.

But there were legal issues about what it said, what was produced and what was not produced. So we would have had to come to the Committee and go through everything that was produced, compare it with what was trashed to decide what was done and what was not. I do not remember making any of those considerations at that time. I am just telling you now what some of the problems might have been with getting that.

The agents were in a hurry, we were in a hurry, everybody believed, to the extent we were being told, that documents, that evidence might be being disposed of. And so the quicker way was, obviously, to do a grand jury subpoena on our own.

Senator LIEBERMAN. Ms. Ingersoll, do you want to add anything?

Ms. INGERSOLL. No.

Senator LIEBERMAN. Again, respectfully, I wish you had gone ahead with the search warrant for the reasons indicated, particularly because of the political nature of the case, but also, just on my judgment, I cannot compare the volume here of evidence, but so much of this stuff that the agents found in the trash just seemed

so directly related to what was being investigated in various places that I think we all would have been better off if we had had a search at that point.

Senator Thompson also covered the question of the Senate subpoena very thoroughly. Ms. Ingersoll, of course, we are all troubled, and you heard it this morning, by the reference of Mr. Smith's memo to you. It is hearsay. I mean, he said he did not hear you say it, but this is during—I am reading from page 3 of that August 4 memo, 1997.

"Most recent trash cover of Ms. Mapili's house, agents found photocopies of six checks from different Asian individuals living in Arkansas, each payable to PLET. Ms. Ingersoll indicated in so many words, 'We will not pursue this matter further.'" Now, that, I take it, might have been on the legal question of whether there was law related to contributions to PLET.

Further, "While clearly within the parameters of the Senate committee subpoena, she has, I am told, indicated she does not intend to refer this information to the Senate, though it appears Ms. Mapili has withheld documents from the Senate committee."

So the various agents that were there this morning could not recall having told Mr. Smith that. Obviously, he is saying to us he would not have just made it up. He heard it somewhere. He thought, he mentioned that he had also been talking to Mr. Lampinski and Ms. Laughlin.

Ms. INGERSOLL. Correct.

Senator LIEBERMAN. And perhaps it came from them. Do you have any recollection of any conversations that could have led any of those people to indicate enough to Mr. Smith to lead him to include that in his memo to FBI Director Freeh?

Ms. INGERSOLL. I certainly, Senator, recall nothing, nor do I believe I would have said anything that would have, in any way, suggested that we should not provide to the Senate anything that we had reason to believe had been withheld from the Senate committee.

There had been extensive discussion, along the lines that Mr. Radek just described, about some of the problems in executing the search warrant based on a Legislative Branch subpoena. Those issues had been discussed approximately 3 months earlier, and that may have—that discussion may have transmuted into this false representation.

Senator LIEBERMAN. Let me go on now to the broad question I asked the FBI agents this morning about whether they had ever had any reason to believe that politics was playing a part in the Department's oversight, the task force's oversight of this investigation.

You were here, and you heard them all say no, except Mr. Wehr, Special Agent Wehr, who said—and I am paraphrasing here—that at one point he raised a matter, I believe it was he, at a task force meeting in Washington about contributions being made, perhaps foreign contributions, at the White House, with the President involved, and you said, "We are not going to investigate that." And I believe he said that his recollection was that you had said, "That's the way American politics works."

And he said he was, I believe he said, scandalized. He was certainly upset about that. And, of course, this was a major topic of our investigation, and we were all upset about it and criticized it in our respective reports.

Did you say such a thing? And if so, why?

Ms. INGERSOLL. Senator, I think I will turn to Mr. Radek because I think we straightened that out.

Mr. RADEK. I think, as we discussed with staff, Senator Lieberman, I was probably the source of what Special Agent Wehr was referring to.

There was, early on in this investigation, an orientation for the FBI agents. They came in from various places. It was before they had really settled in. We were explaining to them what the allegations were, what the violations were, what the investigative plan was. And when I say "we," it was a combination of FBI and DOJ presenters, including some people not directly involved in the investigation, but experts on election laws and other things. We had someone from the FEC there, for instance.

At one point during a question and answer period, it—and I do not remember who the presenter was. It may have been Ms. Ingersoll. I am not sure—it became apparent to me that the questioner or the audience were getting an impression that one could make a bribery case where there was a direct trading of access to a public official in return for a campaign contribution. I believe that you cannot make a bribery case on that. I think that public officials, and I believe probably some of your brethren, grant access to their campaign contributors more quickly and more often than to their noncampaign contributors.

I was making the point that we could not predicate a campaign contribution—a bribery case, where the only quid pro quo was access in return for campaign contributions, and I was pretty clear that I was limiting my remarks only to that.

Now, Special Agent Wehr testified that I said "thing of value" or "money," and I am sure I never said any such thing because I think you can predicate a bribery case on access in return for money, just not campaign contributions, because that is an accepted way of politics, and we could never prove criminal intent.

Senator LIEBERMAN. So we are saying here that it was not Ms. Ingersoll, but it was yourself who made the comment, and the comment was essentially a legal determination about whether these cases were prosecutable.

Mr. RADEK. I was trying to avoid agents going down a path that would lead them to—that would take a lot of investigation and lead them to a nonoffense. I was trying to limit it to offenses.

Senator LIEBERMAN. Had you considered in that answer, at that time—I do not know what the date of this was—but what later became certainly the subject of our hearings, which was whether it was legal to either, to both solicit and receive campaign contributions on Federal property? Obviously, there was this underlying—then a secondary question about whether the White House or what areas of the White House qualify as Federal property.

Mr. RADEK. Had I considered that? I was aware of that statute and its ramifications. I did not consider that to be within the scope

of the question or my comments. My comments had nothing to do with situs, and I do not believe the question did.

Senator LIEBERMAN. So it was more the question of whether a bribery case could be made and what you understood to be the fact situation of granting access in return for contributions.

Mr. RADEK. Yes.

Senator LIEBERMAN. OK. Just two more questions. One is to answer this question, which goes not only to you, Ms. Ingersoll, but to your successor, which is why, according to the folks from the FBI, the involvement of the Justice Department and the task force, specifically, in their investigation was unprecedented in its intrusiveness, in its what I would have to call control of what they were doing. Is that so, and if so, why?

Ms. INGERSOLL. In my experience, it certainly is unprecedented, and I can tell you, Senator, that it caused me every bit as much frustration as it did, quite clearly, not only to these agents, but to other agents and to attorneys working on the matter.

Senator LIEBERMAN. So why did it happen?

Ms. INGERSOLL. I cannot speak for the reasoning of the people to whom I reported or who were supervising and overseeing the FBI side of the investigation. But we were all aware from the beginning that this was not only an extremely high-profile matter, at a time where the allegations were extremely volatile, the targets were fast moving, but it was also an extremely complex series of matters that we were looking at, that were interrelated.

In order to allow us to make progress, in a practical sense, it was my view that we should be constantly evaluating what we were doing to identify specific matters, specific transactions, or specific persons and their activities who might have committed crimes and to pursue those as individual—perhaps not discrete—but individual criminal investigations. That certainly was an effective and probably the only possible investigative organizational approach we could have taken.

Nonetheless, it was regarded, both within and without the Department, as one global matter, and——

Senator LIEBERMAN. As one what?

Ms. INGERSOLL. As one global matter.

Senator LIEBERMAN. Global.

Ms. INGERSOLL. And that was the fact, from my standpoint, as to why people above me wanted to have involvement that they did——

Senator LIEBERMAN. More involvement. So I am hearing you say that you had a special intention here, motive, incentive, to have this come out right. Although one impression of the testimony of the FBI agents would be that the involvement of the Justice task force, in fact, inhibited their investigation or delayed it at various points.

Ms. INGERSOLL. Senator, this was, if you will, a Main Justice investigation. I am a career prosecutor. I am as much of a prosecutor as an assistant U.S. attorney. So was every attorney assigned to the task force. In that respect, it was a criminal investigation, as any other criminal investigation is, from our standpoint.

Senator LIEBERMAN. But, again, you agree that the involvement of Main Justice was unusual?

Ms. INGERSOLL. Absolutely.

Senator LIEBERMAN. There was a lot of discussion along the way, including publicly, that the Public Integrity Section felt some special pressure here to prove that it could prosecute these cases and not have an independent counsel appointed.

What is your response to that, Mr. Radek?

Mr. RADEK. Did that——

Senator LIEBERMAN. The suggestion was that it was pride, whatever it was.

Mr. RADEK. It is a difficult question, and I am sorry to hesitate. But, of course, there is a pride. I mean, the fact is that the Public Integrity Section felt a lot of pressure in this case, and it had little or nothing to do with the Independent Counsel statute.

We had a very high-profile case involving, as Laura described, widespread activity that was ill-defined, in terms of its criminality. We had what I believe strongly were inadequate tools to address it. We had the press trying to beat us to evidence. We had both houses of the Legislative Branch investigating the same matters. We had Attorney General regularly wanting to know how the investigation was progressing. We had supervision of the Acting Assistant Attorney General on a daily basis, something that usually does not happen.

So, yes, the investigation was conducted under a spotlight and under intense pressure. I do not think that had anything to do with the Independent Counsel statute.

Senator LIEBERMAN. Of wanting to keep it away from the independent counsel.

That leads to a final question, which is, as you have heard said here and elsewhere, and this really goes to what the record of the Public Integrity Section was, and here is the critique. You have heard it. After all of this, and after all of the wrongdoing that occurred, nobody is going to jail. I mean, everybody is getting a slap on the wrist, so the allegation goes. So what happened? How do you respond to those criticisms?

Mr. RADEK. I have a lot of responses to Mr. Smith's criticisms. With respect to your general criticism or the general criticism that you just enunciated, the sentencing provisions and the laws dealing with campaign finance may or may not be, in the Legislative Branch's wisdom, a set of laws that has appropriate penalties. They clearly are an inhibiting factor. The penalties are clearly an inhibiting factor in any investigation or prosecution that we conduct under this.

Mr. Smith got it absolutely right when he said we prosecute, we ordinarily do not prosecute conduits; that is, conduits who cooperate. And the reason is that the laws that are there to address them barely make a threat. You cannot coerce somebody into a cooperation with misdemeanor. And I use "coerce" in its best sense; that is, cooperation that is truthful and honest.

And so the policy evolves that the best way to investigate these cases is to try and gain those people's cooperation early on and not prosecute them. There is no policy that we will not prosecute them. And anybody who is under that impression is mistaken. The inadequacy of that hammer, the inability to bring serious penalties in prosecutions, is an impediment, and it is difficult to address.

I will say, with respect to the conduct of the investigation, and I sense we are getting near the end, so this is not directly responsive, but I think it would be wrong, and I think that the legislature has expressed this opinion in its recent enactments of the McDade bill and the Hyde amendment, I think it would be wrong for my prosecutors to sign off on an arrest of somebody, where they did not think there was probable cause and that the elements could not be proved. I think it would be wrong to arrest somebody with the intention of letting them go, and I think it would be doubly wrong to just let a magistrate decide that.

I feel the same way about a search warrant. My attorneys take an oath to uphold the Constitution. If they do not think there is probable cause to conduct a search, I am not going to have them violate their oath because they want to appease agents or because it is easy to let a magistrate decide. So their professional opinion does mean a lot to me.

Senator LIEBERMAN. Well, I agree with you on the arrest warrant, but not in this case on the search warrant.

Mr. RADEK. I understand.

Senator LIEBERMAN. Let me just ask you, following up on what you just said, and real quick, and you can do it in the next few days in writing, if you care to. I talked early on in my opening statement today, which seems like a long time ago, and it is, about possible changes in campaign finance criminal laws. What are the couple of top priorities you would have, having gone through this experience, that you think would have helped you have it come out better?

Mr. RADEK. Clearly, the statute of limitations is a problem. There is absolutely no logical reason to have a 3-year statute of limitation on those offenses, and I have no idea why that was—what in the legislative history does that.

Felony penalties for knowing and willful violations should be available. Now, that's difficult——

Senator LIEBERMAN. Of the campaign finance laws.

Mr. RADEK. Of the campaign finance laws. That gets difficult because, if you are going to have conduits applying to—I mean, if you are going to have the felonies going down to the lowest conduits, it seems to me that that's too serious a penalty for some of this conduct, especially when they are knowing—so I would envision a statutory scheme similar to the conflict of interest laws, where you have a gradation of penalty based upon the degree of criminal intent, saving felonies for the knowing and willful violations. And we would use that against, not the kingpins, but the Maria Mapili and above—I mean, the Keshi Zhan and above, the people who were involved in scattering the money to the conduits.

Senator LIEBERMAN. Thank you. Thank you both. Thanks, Mr. Chairman.

Chairman THOMPSON. I am sure someone watching this is thinking of 100 different questions that could be asked. But we have got to draw a line here somewhere, and I am prepared to do that now. I just have a couple of more things.

Ms. Ingersoll, did you ever talk to Mr. Taylor or communicate with him?

Ms. INGERSOLL. I did not. A task force attorney, Mr. Biran, had a conversation with Mr. Taylor on Monday, July 7, in which—and the Committee has the notes of Mr. Biran's conversation with Mr. Taylor, in which Mr. Taylor indicated that he had the documents, they were in the process of being copied and would be provided by I believe he said 4 p.m. the next day. In fact, they were provided sometime that week.

Chairman THOMPSON. Does the memorandum reflect or do you know who placed the call to whom?

Ms. INGERSOLL. I would have to look at it, Mr. Chairman.

Chairman THOMPSON. Do you have it handy there?

Ms. INGERSOLL. No, but we are looking for it.

Chairman THOMPSON. While we are on that, just kind of to summarize, the missing documents we have covered. That is going to tell you a lot, isn't it?

Ms. INGERSOLL. It is too heavily redacted, Mr. Chairman, in its earlier version.

Chairman THOMPSON. I would like to get a response to that, if not today, maybe later from Mr. Biran; who contacted whom on that occasion.

Ms. INGERSOLL. We will inquire.

Chairman THOMPSON. All right. And get back to me?

Ms. INGERSOLL. Yes, sir.

Chairman THOMPSON. All right. On the search warrant issue, I think that the lines were pretty clear as to the positions that were taken there. I do think that your memorandum there indicating agreement by some of your FBI colleagues has turned out not to be correct.

Ms. INGERSOLL. Mr. Chairman, may I please address that?

Chairman THOMPSON. All right.

Ms. INGERSOLL. Because I realize that is troubling the Committee.

It was, I believe that at the time, throughout my time with the task force, I was treading a very fine line with respect to our relations with the Bureau. I was directed by my management to accommodate the Bureau in every possible respect. At the same time, it meant a great deal to me that we try to bust through these misunderstandings when they cropped up and some of the institutional problems and build a truly effective team. Teamwork was important to me.

It was my practice, whenever I had the opportunity, to sit down and talk face-to-face, not only with the attorneys, but with the agents, and to try to talk through issues. I talked through these issues with Ms. Laughlin and Mr. Sheridan. I can tell you that it was my belief, at the time we finished that conversation, that I had effectively communicated our views, our position on the search warrant. Obviously, they did not indicate to me otherwise, and alas, I did not.

Chairman THOMPSON. Well, in view of the circumstances, not taking it to a magistrate, I still cannot understand.

With regard to the PLET documents, in listening to your hypothetical explanation of the potential problems of enforcing a Senate subpoena, I am beginning to understand some of these independent counsel decisions a little better and how they were derived. There

are clearly problems with regard to prosecuting a case based on obstruction with regard to any subpoena, Senate or otherwise. One of the ways clearly to not have such a problem is never inform the people who are being obstructed.

With regard to campaign finance laws, I think some of your comments are well taken, Mr. Radek. But the problem I think that an awful lot of people have—especially those of us who have done this for a living, from both sides of the table—is that, in an ordinary investigation involving public figures especially, FBI agents and prosecutors are allowed and encouraged to work their way up and use pressure on some people to get information on others. You have got some confusion here as to whether or not you had a policy of prosecuting or not prosecuting conduits. The fact that there is confusion on that basis is troubling enough. But you may have. If you are going to look at a little campaign violation of signing somebody else's name to a check or allowing yourself to be a conduit, of course, that is not much to hang over a person's head.

But what we saw here, time, and time, and time again, were strong indications—and now since the last year or two, strong proof, in some cases—of various patterns of people doing this on a wholesale basis, bundling these checks up on a wholesale basis. Many instances of conspiracy to do so—and conspiracies are not misdemeanors—of conspiracy to violate the law, conspiracy to obstruct justice, and violations of Section 1001, which is not a misdemeanor.

And then when you catch those people red-handed, as apparently we did, time and time again—in our hearings the evidence was clear—you do what you can with regard to those people in order to see if higher ups were involved. You do that if it is a mayor or a senator or anybody else. You have a special obligation to do that when a public figure is involved, an oblication not to be especially timid.

And what we know, because of the interpretation of the Independent Counsel law and because of the testimony we have had—and I have long known this myself, I think it should be clear to everybody—you never had any chance of working your way up with a reserved, timid approach to everything that came up and with a policy of having to get high-level approval for everything that happened. And this Committee, as the FBI agent says, was ahead of you, which is not saying much. We did not feel like we were much ahead of anybody. But we turned out to be ahead of the FBI and the Campaign Task Force on many of these items.

But you do not look at these things individually, like one check or something like that. Clearly, that is no leverage. But if you put it together, in some cases, such as the Tries, the Huangs, the Chungs, Maria Hsia, Ted Sieong, and all of those people on whom we had all of this testimony in their elaborate schemes, in and out of the White House, how can you tell the American people that, well, campaign violation is a misdemeanor, and we have no leverage over these people, and we really cannot grill them with regard to higher-ups because of the Independent Counsel statute? And how can you tell them that we can only wind up at the end of the day with some probation recommendations before we go on our way?

Now, I am not questioning the personal integrity of you or anybody else, but that looks horrendous. The rule of law in this country has been harmed because of all of that, because of the appearance of all of that. And we will find out, maybe because of real wrongdoing. I do not eliminate the possibility of obstruction of justice within the Justice Department until we find out what has happened with regard to those missing documents. I cannot believe somebody would do something so stupid and improper as that. But we keep saying that, and we cannot eliminate anything.

So that is all I have to say about it. And I appreciate your being here today. I know that all of the problems are not to be laid at your feet. I am sure that you, for the most part, have done what you felt like you ought to be doing. But we have our responsibilities, too. And somewhere along the line, we have got to figure out how the Department of Justice and the U.S. Congress can begin to complement each other and work together a little bit toward a common end.

Every time we ring the gavel down here, it is assumed to be a partisan witch hunt. I guess we did a lot of things to encourage that. Every time you start an internal investigation, a lot of people in this country assume there is going to be a cover-up, and that is because of a lot of things that has happened in the past. We have got to get past that. We have got to do much, much better than that.

The record will remain open for 1 week for submission of questions from the Members and pending responses.

Unless you have anything to add, I am going to declare us adjourned.

[Whereupon, at 5:10 p.m., the Committee was adjourned.]

APPENDIX

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE Date: 08/04/1997

To: Director's Office Attn: Personal Attention
Director Louis Freeh

From: Little Rock
Contact: SAC Ivian C. Smith, x-500

Approved By: Smith Ivian C

Drafted By: Smith Ivian C:skf

Case ID #: 58A-HQ-1193317 (Pending)

Title: CAMPCON;
MC-133

Synopsis: Information of concern to SAC Ivian C. Smith re CAMPCON investigation.

Administrative: Reference telcall of SAC Ivian C. Smith to Director Louis Freeh, 08/01/1997.

Details: In referenced telephone call, we discussed ongoing concerns I have for the conduct of captioned investigation being coordinated by the Department of Justice's Public Integrity Section. Some areas discussed, not inclusive, provide examples for the basis of that concern. The examples are based upon my conversations with both Little Rock Special Agents assigned CAMPCON, but also, Special Agents assigned to the Task Force in Washington, D.C.

- For example, early in the case, Little Rock SA Daniel J. Wehr requested subpoenas be issued to [redacted] The DOJ attorney, Eric Yaffe's response was "what probable cause do you have?" In essence, the standard required, according to DOJ, to issue a subpoena was far beyond legally required. (b6)

- With regard to the same subpoena, Yaffe requested that SA Wehr provide the subpoena language. This was researched and accomplished resulting in four pages of instructions and definitions to avoid non-compliance and specious claims of privilege. [redacted] (b6)

- [redacted] 312 3(

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[redacted] This tactic was negated when Little Rock was ordered to [redacted]. Consequently there was no means to monitor her reaction [redacted] (A Fayetteville, Arkansas attorney, W. H. Taylor, arrived at Mapili's residence two days later.)

6(e) 3123(b)

- At Little Rock's request, [redacted]. Even though DOJ counsel had received [redacted] drafted by the Little Rock case agent several days in advance, they were not signed and delivered to Little Rock until the following Monday. The [redacted] were further delayed because they were addressed to "Ms. Daniel J. Wehr." SA Wehr's wife is also an agent assigned to the Whitewater investigation. They were routed to her further delaying the implementation of the [redacted].

3123(b)

?

- Surveillance and trash covers of the residences of Trie and Mapili were requested and initiated. They revealed Mapili had thrown out many historical documents responsive to the subpoena. She also removed file boxes, cabinets, and other items from the Trie residence, and took them to her home. On 7/2/97, an unknown white male (later determined to be Attorney W. H. Taylor of Fayetteville, Arkansas) visited the Trie residence and removed several boxes of material. The Chief Division Counsel for Little Rock approved a car stop by surveilling vehicles to search for evidence. DOJ Attorney's refused to permit it.

?

- Immediately after this incident, SAs at the Task Force convinced DOJ attorneys to approve a search of Mapili's residence. Little Rock marshaled the personnel and equipment necessary for the search, which was to occur on or about 7/3/94. SA Roberta Parker flew to Little Rock on the evening of 7/2/97 assist. While en route, DOJ Attorney Laura Ingersoll withdrew her approval after learning that Mapili was represented by a lawyer, W. H. Taylor, the same individual who removed the documents. (While in Fayetteville on 8/1/97, I learned Taylor is a long time personal attorney for Don Tyson, and has represented Tyson's personal interests with the Office of Independent Counsel handling the Espy probe. The lack of [redacted]

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[redacted] contributes to our lack of specific knowledge as to how Taylor was contacted and by whom.) Most assuredly, Mapili did not directly contact Taylor. 6(e) ?

- That same afternoon, DOJ Attorney William Corcoran tried to arrange, by phone, a meeting with Taylor on the following day. Taylor refused as he was leaving for his office in Fayetteville, over 200 miles away, early the next morning, with the documents, due to a court commitment. Nevertheless, Corcoran flew to Little Rock to catch him before Taylor's departure. The meeting never occurred because Taylor checked out of his hotel at 5:00 A.M. on July 3, 1997, as he had indicated, while Corcoran was still sleeping at his hotel.

- July 2, 1997, before leaving Washington, Corcoran [redacted] 6(e) According [redacted] and SA Kevin Sheridan, [redacted] it was apparent that Corcoran had not even read the [redacted] FD-302. In his rush to catch his plane to Little Rock, Corcoran missed many issues [redacted] 6(e

  I personally met with [redacted] bought him lunch, spent quite some time with him discussing a wide range of matters to establish a medium of trust, in order to ensure his cooperation. [redacted] 6(e) ?

- During the most recent trash cover of Mapili's house,

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agents found photocopies of six checks from different Asian individuals living in Arkansas, each payable to the Presidential Legal "Expenses (sic)" Trust, each in the amount of $1,000, dated between 3/26/96 and 4/3/96, and torn into many pieces. Ingersoll indicated, in so many words, "we will not pursue this matter." Further, while clearly within the parameters of the Senate committee subpoenas, she has, I'm told, indicated she does not intend to refer this information to the Senate though it appears Mapili has withheld documents from the Senate committee.

- Since the trash covers continue to produce relevant documents, SA Parker renewed her efforts to get a search warrant approved by Ingersoll, which are on-going. According to SA Parker, Ingersoll has demanded "probable cause to convict" Mapili, before approving a search warrant. Based upon the results of the trash cover to this point, Mapili still has documents pertinent to both the Senate's and DOJ's investigations.

- It has become clear Senate investigations are often ahead of us in interviewing key witnesses. For example, after interviewing Linkous, on 4/23/97, Little Rock requested permission to immediately serve [redacted], or conduct a search, or interview him, but at least, take some action. On 7/3/97, at the time Corcoran was in Little Rock, this had not been granted. However, SA Jerome Campane while in Little Rock interviewed Little Rock Mayor Jim Dailey, Linkous, and Fleming. Fleming is potentially a key witness, and is likely prosecutable, due to his Trie associations and involvement in handling large amounts of cash from overseas.

assign to Senate inv.

- On 7/3/97, I specifically told Corcoran, et al, of my considerable unhappiness in the lack of aggressiveness in the manner the investigation was being conducted and that his trip to Little Rock was a waste of taxpayers' money. Basically, he offered no explanation or defense.

My concern is driven by an increasing amount of frustration by the working street agents engaged in this matter, where very elementary investigative steps are being ignored, or delayed, to the point of having less impact, i.e. the Fleming interview.

On 07/31/1997, I met with SA Roberta Parker, a hard working and accomplished Special Agent, and SA Wehr, an

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experienced investigator, who is an excellent lawyer in his own right and who practiced law before becoming an agent. My advice to both was to ensure there is a record, for "future historians", all that is being mishandled, i.e. if they believe there is probable cause to search Mapili's residence, and this is refused by DOJ, the basis for this belief, and the reason for the refusal, should be recorded.

Further, as discussed, I would recommend you meet specifically with investigators who, I suspect, are prepared to provide details that provide the basis they have for the lack of confidence in Public Integrity's handling of this investigation.

I am well aware of such matters as "prosecutive discretion," but I am convinced the team at DOJ leading this investigation is, at best, simply not up to the task. Frankly, I base this conclusion not only on the CAMPCON matter, but other investigations Public Integrity has handled from their office due to recusals from the United States Attorneys. The impression left is the emphasis is on how not to prosecute matters, not how to aggressively conduct investigations leading to prosecutions.

Finally, I would point out, based upon my own experience with both WHITEWATER and CAMPCON, attorneys without prior investigative or prosecutive experience should not "lead" such investigations. Investigators should be allowed to fulfill traditional investigative roles, and prosecutors serve in that capacity alone, not in directing investigations, absent individuals with requisite skills in both disciplines.

++

Kisinoff

RParker's draft

TASK FORCE DRAFT

of

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

FOR RESIDENCES OF CHARLIE TRIE AND MARIA MAPILA

UNREDACTED VERSION

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

Roberta N. Parker, Special Agent of the Federal Bureau of Investigation, being duly sworn, deposes and says as follows:

1. I have been employed as a Special Agent of the Federal Bureau of Investigation for approximately fourteen and one-half years. I have been assigned to white-collar crime investigations for approximately twelve years. As part of my white collar crime investigation responsibilities, I have investigated the following crimes: fraud by wire, mail fraud, fraud against the government, money laundering, political corruption, and health care fraud. On or about January 14, 1997, I was assigned to the Campaign Financing Task Force, which is investigating alleged violations of federal campaign financing statutes and other federal laws.

2. This affidavit is submitted in support of the application for search warrants for the premises located at 1407 S. Cleveland, Little Rock, Arkansas, and 6 Painted Turtle Cove, Little Rock, Arkansas, in order to secure evidence of criminal offenses against the United States, namely violations of 18 U.S.C. § 1503 (obstruction of justice), 18 U.S.C. §§ 1001 and 2(b) (causing a false statement to be made within the jurisdiction of a federal agency), and 2 U.S.C. §§ 441e, 441f and 437g(d)(1)(A) (prohibitions against contributions by foreign nationals and contributions in the name of another).

3. [redacted] b(e)

b(e)

[redacted] I am familiar with all of the relevant circumstances of this investigation. On the basis of this familiarity, I allege that the facts in the numbered paragraphs below reveal that there is probable cause to believe that:

A. There is probable cause to believe that Maria Mapili, a.k.a. Dia Mapili, has violated 18 U.S.C. § 1503 by obstructing the due administration of justice;

B. There is probable cause to believe that Yah Lin Trie has violated 18 U.S.C. §§ 1001 and 2(b) by causing the submission of false statements to the Federal Election Commission by the Democratic National Committee and Gephardt for Congress;

C. There is probable cause to believe that Yah Lin Trie has violated 2 U.S.C. §§ 441e, 441f, and 437g(d)(1)(A) by making contributions with funds from impermissible foreign sources and by making contributions in the name of other persons; and

D. There is probable cause to believe that the items described in paragraph __ below pertain to the offenses set out in paragraph 2 and are presently concealed within the premises located at 1407 S. Cleveland, Little Rock, Arkansas, and 6 Painted Turtle Cove, Little Rock, Arkansas.

BACKGROUND

4. Since January 1997, I have been assigned to an investigation into allegations of violations of federal criminal laws pertaining to the raising of campaign contributions and donations in the 1992, 1994, and 1996 federal election cycles. This investigation was initiated in late fall 1996.

5. Beginning in approximately October 1996, allegations of campaign financing violations received widespread media attention. Stories about alleged election law violations involving fund raising appeared regularly on the front pages of virtually all major newspapers across the country, on the national television news, on national radio programs, and on the Sunday morning political talk shows.

6. Among the allegations reported in the press were several that related to Yah Lin Trie, aka Charles Yah Lin "Charlie" Trie, and various individuals and entities affiliated with Trie, including, but not limited to, Keshi Zhan, Ng Lap Seng, Daihatsu International Trading, Inc., and San Kin Yip International Trading Co., Inc.

7. [redacted] 6 (a)

YAH LIN TRIE AND HIS COMPANIES

8. Investigation reveals that Yah Lin Trie was born on

August 15, 1949, in Tai Chung, Taiwan. Trie applied for an immigrant visa and alien registration on February 5, 1976, and was lawfully admitted for permanent residence on February 13, 1976. On December 7, 1984, Trie became a naturalized United States citizen.

9. Investigation reveals that by 199_, Trie was a "Managing Trustee" of the Democratic National Committee (DNC). Investigation reveals that in order to obtain Managing Trustee status with the DNC, Trie must have been credited with contributing or soliciting at least $100,000 for the DNC.

10. Interviews and record analysis reveal that from 1991 through the present time, Trie has maintained a residence at 1407 S. Cleveland, Little Rock, Arkansas. Based on interviews and record examination, the investigation reveals that Trie has used this address as his primary business address for two companies with which he is affiliated, Daihatsu International Trading, Inc. (Daihatsu), and San Kin Yip International Trading Co., Inc. (SKY), since 19__. Post office records indicate that mail for these two corporations is currently being received at this location.

11. Investigation reveals that Daihatsu was incorporated in Little Rock, Arkansas, on November 14, 1991. Examination of Daihatsu's Articles of Incorporation reveals that the initial registered agent for Daihatsu was Yah Lin Trie, and that Daihatsu's corporate purpose was to purchase, sell, and distribute products of a general nature. Investigation reveals

that **[from the time of its incorporation throught the present, Daihatsu's sole shareholder has been Yah Lin Trie.]**

12. Investigation reveals that SKY was incorporated in Little Rock, Arkansas on October 7, 1994. Examination of SKY's Articles of Incorporation reveals that the initial registered agent for SKY was Ng Lap Seng, and that SKY's corporate purpose was to import and export various products. The incorporator of SKY was Maria Mapili. Investigation reveals that **[from the time of its incorporation throught the present, SKY's only shareholders have been Yah Lin Trie and Ng Lap Seng.]**

13. Investigation reveals that Trie has established several additional businesses in Washington, D.C., including, but not limited to, San Kin Yip Group (USA), Inc., America Asia Trade Center, Inc., and Grand Union Corporation.

14. Investigation reveals that Trie has utilized numerous bank accounts in the operation of Daihatsu and SKY. Daihatsu's main business checking account (#78301-3) was opened on September 7, 1994, at the First Commercial Bank, Little Rock, Arkansas. This signatories for this account are Trie and Trie's wife, Wang Mei Trie. Maria Mapili was granted power of attorney over this account at its inception. Analysis of account records reveals that the account has received numerous large wire transfers from banks in Hong Kong and the People's Republic of China.

NG LAP SENG

15. Investigation reveals that Ng Lap Seng, aka Lap Seng

Ng, is a wealthy businessman who resides in Macao. He is not a United States citizen. Investigation reveals that he has extensive business interests in Macao and Hong Kong. **[Ng, along with Trie, owns SKY.]** Ng also is a member of the Board of Directors of San Kin Yip Group (USA), Inc.

MARIA MAPILI

16. Investigation reveals that Maria Mapili, aka Dia Mapili, was born on May 7, 1947. She currently resides at 6 Painted Turtle Cove, Little Rock, Arkansas, and is married to Reynaldo B. Maria Mapili. Investigation reveals that Mapili is Yah Lin Trie's cousin.

17. Interviews of a former business partner of Trie and the former business partner's wife indicate that Mapili has been an employee of Trie's Little Rock businesses since the early 1990s, working as Trie's office manager, with responsibilities for typing, answering phones, and handling mail. Records analysis indicates that Mapili has been employed by Trie and/or Daihatsu from approximately September 1994 through the present.

18. Mapili is listed in corporate records as Daihatsu's corporate Secretary. She is also listed as the incorporator of SKY in SKY's Articles of Incorporation. She is also listed as the incorporator and Secretary for San You Science and Technology Enterprise, USA, Inc., a Little Rock based company owned by Trie. Mapili was granted power of attorney by Trie in connection with a 1994 proposal by Trie, Ng, and Daihatsu to acquire and

rehabilitate the Camelot Hotel in downtown Little Rock.

19. Surveillance establishes that Mapili goes to the 1407 S. Cleveland, Little Rock location on a daily basis. Surveillance further establishes that Mapili enters the location with a key, and that no other individuals are currently living or working at the 1407 S. Cleveland, Little Rock address.

20. On June 27, 1997, at ___ [a.m.], a Federal Grand Jury subpoena duces tecum issued to Maria Mapili was personally served upon her at [location]. A photocopy of the subpoena and its one-page attachment is appended to this affidavit as Appendix A. In summary, the subpoena requires production of certain documents and records in Mapili's possession relating to the allegations described in paragraphs __, and relating to several individuals and entities, including, but not limited to, Yah Lin Trie, Daihatsu, SKY, San Kin Yip Group (USA), Inc., Grand Union Corporation, and America Asia Trade Center, Inc.

KESHI ZHAN

21. Through investigation, I know the following: Keshi Zhan was born in Beijing, China, on October 24, 1955. She entered the United States on a visitor's visa on September 25, 1989. On June 30, 1993, Zhan applied for permanent resident status, which was granted on or about September 24, 1993. She is not a U.S. citizen. Zhan holds a Master's Degree in Business Administration from Strayer College. She has been employed full time by Arlington County, Virginia, from April 1993 through the present in clerical positions. Her present salary as an Arlington County

employee is approximately $22,000. In addition to her job with Arlington County, Zhan has worked part time since October 1993 as an accountant, bookkeeper, and office manager for companies affiliated with Yah Lin Trie and/or Ng Lap Seng, including Daihatsu, SKY, and San Kin Yip Group (USA), Inc. On an apartment application she filled out on October 1, 1996, Zhan listed SKY as her part-time employer and listed her salary from that employment as $2,400 per month.

22. Investigation reveals that Yah Lin Trie and Ng Lap Seng opened bank account #23-343-663 at Riggs Bank, Washington, D.C., on October 20, 1994, in the name of "Watergate South, Ng Lap Seng, Yah Lin Trie" (hereinafter referred to as the "Watergate South account"). Account records indicate that Keshi Zhan was granted Power of Attorney over the Watergate South account as of December 20, 1994. Account records further indicate that Zhan writes and signs a majority of the checks drawn on the Watergate South account, using her Power of Attorney over the account. Investigation further reveals that Zhan is responsible for writing and signing the majority of the checks drawn on checking account number 17-191-501 at Riggs Bank, Washington, D.C. This account is held in the name of SKY and was opened on September 6, 1995. The signatories on this SKY account are Keshi Zhan and Yah Lin Trie.

RELEVANT STATUTES

23. Title 18, United States Code, Section 1503, provides in relevant part:

> Whoever corruptly ... influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished by ... imprisonment for not more than 10 years, a fine ... or both.

24. The version of Title 18, United States Code, Section 1001, in effect at the time of alleged violations provided as follows:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.

25. Title 18, United States Code, Section 2(b), provides:

> Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

26. The Federal Election Campaign Act (FECA), Title 2, United States Code, Section 431(8)(A), defines a "contribution" as

> any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

27. The FECA, Title 2, United States Code, Section 441e(a), provides:

> It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person

to solicit, accept, or receive any such contribution from a foreign national.

28. The FECA, Title 2, United States Code, Section 441f, provides:

> No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

29. The FECA, Title 2, United States Code, Section 437g(d)(1)(A), provides:

> Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both.

INVESTIGATION

30. My investigation to date has utilized, among other things, witness interviews [redacted] public record information, news reports, and trash discarded from the premises located at 1407 S. Cleveland, Little Rock, Arkansas. b(2)

31. I have been investigating Yah Lin Trie, Ng Lap Seng, Keshi Zhan, their businesses, and others affiliated with them, with respect to allegations of federal campaign financing and other violations.

32. State of Arkansas real property records reveal that the property located at 1407 S. Cleveland, Little Rock, Arkansas, is owned, and has been owned since ___, by Yah Lin Trie. State of Arkansas real property records reveal that the property located

at 6 Painted Turtle Cove, Little Rock, Arkansas, is owned, and has been owned since ___, by Maria Mapili [and Reynaldo B. Mapili].

A. Probable Cause to Believe That Maria Mapili Has Violated 18 U.S.C. § 1503

33. [Surveillance of Dia -- entering and leaving 1407 S. Cleveland].

34. On June __, 1997, and July 1, 1997, Special Agents of the FBI obtained [from the curb in front of 1407 S. Cleveland, Little Rock, Arkansas,] trash which had been discarded by persons with access to the premises located at 1407 S. Cleveland, Little Rock, Arkansas. The trash cover indicates that Maria Mapili is and has been destroying documents and records relating to Yah Lin Trie's businesses, travel, and financial transactions. Multiple documents have been shredded or torn into small pieces by use of hand shears or some other manual cutting device. Other documents were discarded into the trash without being shredded.

35. Several of the documents obtained from the trash on June __, 1997, [redacted] Among the documents are: b(-)

a) A check register for a bank account held in the name of Daihatsu;

b) A Federal Express package (empty) indicating that it had contained a two-pound package sent by the White House Office of Administration on May 5, 1997;

c) A letter dated October 1, 1993, from Jude Kearney, Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration, United States Department of Commerce, Washington, D.C.;

d) A Christmas card from Keshi Zhan to Dia Mapili;

e) An envelope addressed to Yah Lin Trie from Delta Skymiles;

f) A 1993 Bank of China, Macao, bank statement for San Chung Hing Property Investment Ltd, a business owned by Ng Lap Seng;

g) Documents reflecting flight arrangements for Ng Lap Seng;

h) A 1995 bank deposit slip and 1995 wire transfer documents [what accounts?]; and

i) A hand written note indicating that an acquaintance of Trie who works as a flight attendant for China Air would be staying at a hotel in Seattle, Washington, on or about June 27, 1997.

35. On Sunday, June 29, 1997, [redacted] 6(a) surveillance of Maria Mapili ascertained that Mapili and two other individuals removed file drawers, boxes, and documents from the premises located at 1407 S. Cleveland, Little Rock, Arkansas, and placed them in a vehicle. Mapili was then

observed driving these items to her residence at 6 Painted Turtle Cove, Little Rock, Arkansas, and unloading them into her residence.

36. On July 1, 1997, Special Agents of the FBI obtained [from the curb in front of 1407 S. Cleveland, Little Rock, Arkansas,] trash which had been discarded by persons with access to the premises located at 1407 S. Cleveland, Little Rock, Arkansas. Several discarded documents had been shredded or torn into small pieces.

37. Several of the documents obtained from the trash on July 1, 1997, [redacted] Among such documents are the following: 6(e)

a) A 1995 Daihatsu financial statement which had been ripped into pieces;

b) A fax cover sheet indicating that the Daihatsu financial statement described in the preceding subparagraph had been faxed in April, 1996, to Antonio Pan, [describe him]; and

c) Approximately nine crumpled check carbons relating Daihatsu's account at First Commercial Bank, Little Rock, Arkansas.

A. Probable Cause to Believe That Maria Mapili Has Violated 18 U.S.C. § 1503

[redacted] 6(e)

Under the FECA, the treasurer of a political committee, such as the DNC, is required to file periodic reports with the Federal Election Commission (FEC). See 2 U.S.C. § 434(a). Among the information required to be contained in such reports is the name of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such contribution. See 2 U.S.C. § 434(b)(3)(A).

16. Witness interviews and DNC records obtained in the course of this investigation reveal the following: On February 19, 1996, the DNC held a $12,500-a-plate fund raising dinner at the Hay Adams Hotel in Washington, D.C. John Huang, a DNC fund raiser, was heavily involved in organizing this dinner. Approximately 100 individuals attended the Hay Adams event, mainly Asian-Americans. President Clinton also attended this event. The DNC raised over $1,000,000 in connection with the Hay Adams dinner.

Keshi Zhan's Purported $12,500 Contribution to the DNC in Connection with the Hay-Adams Dinner

17.

18. Account records reveal that, as of February 9, 1996, the Watergate South account had a balance of $10,682.55. Account records further indicate that on February 9, 1996, Zhan wrote and signed check number 385 drawn on the Watergate South account in the amount of $12,500 payable to herself, using her Power of Attorney over the account. Thus, funds were not available in the Watergate South account to cover the entire amount of check number 385 as of February 9, 1996. There were no deposits into the account from February 9, 1996, through February 13, 1996. On February 14, 1996, a deposit was made into the Watergate South account in the form of a wire transfer through the Bank of China NYC in the amount of $149,985. The transaction journal for the

wire transfer indicates the funds were sent from San Kin Yip Holdings Co. Ltd., through an account at the Bank of China Hong Kong. The incoming wire transfer brought the balance of the Watergate South account to $160,157.55 as of February 14, 1996. There were no additional deposits into the Watergate South account for the month of February 1996.

19. Investigation reveals that Keshi Zhan maintains a checking account at the Bank Fund Staff Federal Credit Union (BFSFCU), account number 231903. Account records indicate that Watergate South check number 385 in the amount of $12,500, signed by and made payable to Zhan, was posted to Zhan's BFSFCU account on February 26, 1996. Account records for Zhan's BFSFCU account further indicate that on February 19, 1996, Zhan wrote and signed check number 0568 drawn on her BFSFCU account, payable to the DNC in the amount of $12,500. Account records reflect that Zhan's $12,500 check to the DNC (number 0568) posted to her BFSFCU account on February 26, 1996.

20. [redacted]

TAX INF

[redacted]

21. Photographs taken by the DNC of the Hay Adams dinner reveal that Keshi Zhan attended that event. DNC records reveal that a $12,500 contribution to the DNC was made in the name of Keshi Zhan in connection with the Hay Adams dinner. DNC records further indicate that Zhan's $12,500 contribution in connection with the Hay Adams event was designated for deposit into a DNC federal ("hard money") account, and was thus a "contribution" within the meaning of the FECA.

22. Analysis of FEC records reveals that the DNC filed a report with the FEC in which the DNC stated that it received a $12,500 contribution from Zhan on February 23, 1996. However, analysis of the relevant bank records, as described above, indicates that Zhan was not the true source of these funds.

Yuefang Chu's Purported $20,000 in Contributions to the DNC

23. Under the FECA, the maximum amount an individual may contribute in a calendar year to the federal accounts of a national party committee, such as the DNC, is $20,000. 2 U.S.C. § 441a(a)(1)(B). The FECA makes it unlawful for a foreign national directly or through any other person to donate money in connection with an election for any political office. See 2 U.S.C. § 441e.

24. Through witness interviews, I have learned that an

individual named Ming Chen is employed by a Macao company owned by Ng Lap Seng, who is a foreign national. Chen's wife is named Yuefang Chu. She is not employed by Ng or by any entity controlled by Ng.

25. According to information provided by Chu to me during an interview on April 27, 1997, neither she nor her husband, Ming Chen, attended the Hay Adams dinner. However, Chu provided $20,000 in the form of two checks toward the purchase of two Hay Adams tickets at the request of Ng Lap Seng, who is the president of the company for whom Chen works in Macao. During her April 27, 1997 interview, Chu stated that the tickets Ng wanted cost $12,500 each, and were for Ng to meet President Clinton. Photographs of the Hay Adams dinner reveal that Ng attended the Hay Adams dinner and was seated at President Clinton's table at the event, along with Yah Lin Trie. FEC records reveal that Ng, a foreign national, did not make a contribution in his own name to the DNC in connection with the Hay Adams dinner. As stated above, Keshi Zhan also attended the Hay Adams dinner.

26. Analysis of the Watergate South account records indicates that check number 382 drawn on the account was dated February 19, 1996, and was made payable to Ming Chen in the amount of $12,500. This check was signed Keshi Zhan, using her Power of Attorney over the Watergate South account.

27. My investigation reveals that Chen and Chu maintain a joint checking account at the BFSFCU, account number 1585595.

28. A BFSFCU deposit slip for account number 1585595

indicates that check number 382 drawn on the Watergate South account in the amount of $12,500 was posted to Chen and Chu's joint account at BFSFCU on February 20, 1996. Further analysis of Chen and Chu's BFSFCU account reveals that, on February 19, 1996, check number 526 was drawn on Chen and Chu's BFSFCU account, made payable to the DNC in the amount of $12,500. Although the Watergate South check for $12,500 was made payable to Chen, the $12,500 check to the DNC drawn on Chen and Chu's BFSFCU account was signed by Yuefang Chu, who is not an employee of Ng Lap Seng. Account records reflect that Chu's $12,500 check to the DNC (number 0568) was posted to her BFSFCU account on February [], 1996.

29. DNC records reveal that a $12,500 contribution to the DNC was made in the name of Yuefang Chu in connection with the Hay Adams dinner. DNC records further indicate that Chu's $12,500 contribution in connection with the Hay Adams event was designated for deposit into a DNC federal ("hard money") account, and was thus a "contribution" within the meaning of the FECA.

30. Analysis of FEC records reveals that the DNC filed a report with the FEC in which the DNC stated that it received a $12,500 contribution from Chu on February 23, 1996. However, analysis of the relevant bank records, as described above, indicates that Chu was not the true source of these funds.

31. Analysis of the Watergate South account records indicates that check number 383 drawn on the account was dated February 19, 1996, and was made payable to Ming Chen in the

amount of $7,500. This check was signed Keshi Zhan, using her Power of Attorney over the Watergate South account.

32. My investigation reveals that, in addition to their BFSFCU account, Chen and Chu maintain another joint checking account at Chevy Chase FSB, Chevy Chase, Maryland, account number 9232090.

33. A BFSFCU deposit slip for account number 1585595 indicates that check number 383 drawn on the Watergate South account in the amount of $7,500 was posted to Chen and Chu's joint account at BFSFCU on February 20, 1996. Analysis of Chen and Chu's Chevy Chase FSB account reveals that, on February 19, 1996, check number 865 was drawn on Chen and Chu's Chevy Chase FSB account, made payable to the DNC in the amount of $7,500. This check was signed by Yuefang Chu. Account records reflect that Chu's $7,500 check to the DNC (number 865) was posted to her Chevy Chase account on February [], 1996.

34. DNC records reveal that a $7,500 contribution to the DNC was made in the name of Yuefang Chu in connection with the Hay Adams dinner. DNC records further indicate that Chu's $7,500 contribution in connection with the Hay Adams event was designated for deposit into a DNC federal ("hard money") account, and was thus a "contribution" within the meaning of the FECA.

35. Analysis of FEC records reveals that the DNC filed a report with the FEC in which the DNC stated that it received a $7,500 contribution from Chu on February 23, 1996. However, analysis of the relevant bank records, as described above,

indicates that Chu was not the true source of these funds.

36. During her April 27, 1997 interview, Chu stated that she provided $20,000 out of the $25,000 necessary to purchase the two tickets desired by Ng because she only had $20,000 in available funds, and that she therefore asked Xiping Wang, the wife of her husband's cousin, to write a $5,000 check for the rest. However, investigation reveals that Chu had only $20,000 available to her -- which is the maximum amount an individual may contribute to a national party committee in a calendar year -- because Chen received exactly that amount by way of Watergate South account checks 382 and 383 made out to him, both of which were signed by Keshi Zhan.

$5,000 Purported Contribution to the DNC
by Xiping Wang and Zhengwei Cheng

37. Investigation reveals that Zhengwei Cheng is Ming Chen's cousin. Zhengwei Cheng's wife is named Xiping Wang. Neither Zhengwei Cheng nor Xiping Wang is employed by Ng Lap Seng or by any entity controlled by Ng, but rather are employed as restaurant workers. Zhengwei Cheng and Xiping Wang reside in the same townhome section as do Ming Chen and Yuefang Chu, adjacent units 28 and 30 on Carriage Walk Court, in Gaithersburg, Maryland. Chu, Wang, and Cheng admitted during interviews to being friends with Keshi Zhan. My investigation reveals that Zhan used Chen and Chu's address, 30 Carriage Walk Court, Gaithersburg, Maryland, as her residence for the purpose of titling two vehicles in December 1995 and August 1996.

38. According to information provided by Cheng and Wang to

me during interviews conducted on May 8, 1997, neither Cheng nor Wang attended the Hay Adams dinner. However, Wang stated that she wrote a $5,000 check at the request of Ming Chen, who told her that he needed the money so that he and his boss could attend a White House event.

39. Analysis of the Watergate South account records indicates that check number 384 drawn on the account was dated February 19, 1996, and was made payable to Zhengwei Cheng, in the amount of $5,000. This check was signed Keshi Zhan, using her Power of Attorney over the Watergate South account.

40. My investigation reveals that Cheng and Wang maintain a joint checking account at the BFSFCU, account number 2556105.

41. Analysis of this BFSFCU account number 2556105 reveals that check number 384 drawn on the Watergate South account in the amount of $5,000 was posted to Cheng and Wang's joint account at BFSFCU on February 20, 1996. Further analysis of Cheng and Wang's BFSFCU account reveals that, on February 19, 1996, check number 152 was drawn on Cheng and Wang's BFSFCU account, made payable to the DNC in the amount of $5,000. This check was signed by Xiping Wang.

42. In an interview conducted on May 8, 1997, Wang stated that, at the time she wrote the $5,000 check requested by Ming Chen, she knew that she and Cheng did not have enough money in their account to cover the check. Wang indicated during her May 8, 1997 interview that she did not fill in the payee line on the check, or she may have only signed the check, leaving the rest

blank. According to Wang, Cheng was not home at the time Ming Chen requested this $5,000 and Wang gave it to Chen. Later in the day, Cheng returned home and discovered that Wang had written the $5,000 check. Cheng was very angry. He confronted Chen, told him that he and Wang did not have the money to cover the check, and demanded that Chen return the check. According to [who?], Chen advised that he had already given the check "to someone else." However, Chen told Cheng not to worry and that he would have $5000 deposited into Cheng and Wang's account to cover the check.

43. DNC records reveal that a $5,000 contribution to the DNC was made in the name of Xiping Wang in connection with the Hay Adams dinner. DNC records further indicate that Wang's $5,000 contribution in connection with the Hay Adams event was designated for deposit into a DNC federal ("hard money") account, and was thus a "contribution" within the meaning of the FECA.

44. Analysis of FEC records reveals that the DNC filed a report with the FEC in which the DNC stated that it received a $5,000 contribution from Wang on February 23, 1996. However, analysis of the relevant bank records, as described above, indicates that Wang was not the true source of these funds.

B. Probable Cause to Believe That Keshi Zhan Has Violated 2 U.S.C. §§ 441f and 437g(d)(1)(A)

44. As described above, investigation reveals that Keshi Zhan caused her name to be used to make a $12,500 contribution to

the DNC with funds that in fact did not belong to her, but which had a few days earlier been wired into Yah Lin Trie and Ng Lap Seng's Watergate South account from San Kin Yip Holdings Co. Ltd., through an account at the Bank of China Hong Kong.

45. In addition, as described above, investigation reveals that Zhan made $25,000 in additional contributions to the DNC in the names of Yuefang Chu and Xiping Wang, using funds which had been wired a few days earlier into Yah Lin Trie and Ng Lap Seng's Watergate South account from San Kin Yip Holdings Co. Ltd., through an account at the Bank of China Hong Kong.

Further, affiant saith not.

_____
Roberta N. Parker
Special Agent
Federal Bureau of Investigation

SUBSCRIBED AND SWORN TO
BEFORE ME THIS ___ DAY
OF JUNE, 1997.

_____
United States Magistrate Judge

Laura Ingersoll notes of discussion with DOJ attorney
Jonathan Brian, August 4, 1997

8/4 w/ JB

In LR – Q (proposed) abstr – – material items not discovered but
hindsight ledger w/ poldavs & wires in parts out
– PLET docs – we do have! elements
(even tho not responsive to us, just Sen)