

book might reveal sensitive White House security information. Yet, in a letter dated September 18 from White House counsel Jack Quinn to Chairman WILLIAM CLINGER regarding the matter, Mr. Quinn mentions no such issue. Rather, Quinn says the issue was "the integrity of the Bureau's background investigation process." It wasn't sensitive White House security matters at all.

In addition, when asked for the first time about giving the Aldrich book to the White House, Shapiro described the exchange as a much more casual event. On July 30, he was deposed by the House committee. On page 82 of his deposition, Shapiro says, "Well, I called and advised Jack Quinn that there was a book in draft that had been given to us to review that * * * based on our prior experience we could not ensure would not be published before we completed our review of it. And I believe, if my recollection is correct, that I asked him if he wanted to have a copy of it." Mr. Shapiro goes on to say he didn't discuss the contents of the book with Mr. Quinn.

This is how I see it, Mr. President. First, Mr. Shapiro provided the book to the White House as a courtesy. Then he discovered his action came under scrutiny. It was highly controversial. Once again, he was accused of playing footsie with his contracts at the White House. So he rationalized what he had done by inventing the story of sensitive White House security information being at the heart of his concern.

Frankly, I don't buy it. It isn't backed up by Mr. Quinn, and it isn't backed up by Mr. Shapiro's own testimony when he was first asked about it. Furthermore, isn't it fair to assume that, if Mr. Shapiro is sincere about his motives, he would have sent a copy of the Aldrich book to the Secret Service since it is responsible for sensitive White House security matters?

Issue 3. On July 16, Mr. Shapiro authorized two FBI agents to pay a visit to Agent Dennis Sculimbrenne upon Shapiro's discovery of the controversial information found in Mr. Livingstone's FBI background file. Mr. Sculimbrenne was the agent who had prepared the Livingstone file. White House officials were questioning the accuracy of the file. As a consequence, Mr. Shapiro took it upon himself to once again referee the situation. He sent the two agents to Sculimbrenne to clarify the discrepancies. Later that day, Sculimbrenne's work station was also searched by FBI agents.

The problem with this action by Shapiro is that it could be seen as intimidation of an agent at the behest of White House officials. Moreover, in the process of sending these agents, Shapiro created at least the appearance of a conflict of interest for himself. As General Counsel, he inserted himself into an operational matter. On that part of the operation, he could no longer be an independent, impartial legal advisor to the Director. Instead of

defending the FBI, he has to defend his own actions. This conflict now allows the public to question his motives and the plausibility of his explanations.

Finally, Mr. Shapiro took this action without consulting the independent counsel, and despite the Attorney General's June 20 announcement that continued involvement in this matter by the FBI would constitute a conflict of interest.

Issue 4. A July 25 letter from Mr. Quinn to the FBI Director was first read to Mr. Shapiro over the phone to get his opinion as to the tone and some editorial content of the letter. That letter was highly political, attacking the credibility of some FBI agents, and also attacking the chairman of a standing committee of the U.S. House of Representatives in the performance of his oversight responsibilities. That hardly shows an arm's-length relationship between the White House and the FBI in the midst of this political confrontation.

Mr. Shapiro has responded to each of these issues. It's on the record, for everyone to see.

I have reviewed that record. In my view, Mr. Shapiro's explanations ring empty. The inescapable conclusion is, he's been playing footsie with the White House. At the very least, there's a clear-cut appearance problem. Neither is good for the FBI's image or for the public's confidence in the Bureau.

I look at the results, not the explanations. The results are, what he did helped those being investigated. What he did interfered with the investigations. That's my interpretation. And that's a fair interpretation because he inserted himself into these matters. He appointed himself a referee in the arena of politics. And frankly, that gives the FBI a black eye, and it further erodes the confidence the public has in the Bureau.

As a senior member of the Judiciary Committee, and chairman of its oversight subcommittee, this Senator can no longer have confidence in Mr. Shapiro's impartiality. I do not have confidence that he will discontinue this cozy relationship with the White House.

I note the many credible voices in both bodies of Congress calling for Mr. Shapiro's resignation. This Senator has reserved judgment on that question. It is my intention to thoroughly review the complete hearing record, together with Mr. Shapiro's responses to my and others' follow-up questions. Upon completion of that review, I will come to my own conclusion as to whether or not Mr. Shapiro can continue to fulfill his responsibilities in a credible and impartial manner.

DETENTION AND 212(c) WAIVERS FOR CRIMINAL ALIENS PROVISIONS OF H.R. 2202

Mr. ABRAHAM. Mr. President, I would like to ask the chairman of the Judiciary Committee to clarify a few

changes made in the criminal alien provisions of the Senate immigration bill when the House and Senate conferees adopted the conference report on H.R. 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. These provisions are included in this omnibus appropriations measure. I know Senator HATCH was deeply involved in the development of the section on criminal aliens, as a conferee on this legislation.

First, I would like to ask about a change made to the exception to mandatory detention for criminal aliens. Section 303(a) of the conference report would add to the Immigration and Nationality Act a new section providing for mandatory detention of criminal aliens by the Attorney General prior to deportation or exclusion, which was already required under the Anti-terrorism and Effective Death Penalty Act signed into law earlier this year. That section in the conference report also includes a provision permitting release in extremely narrow circumstances—specifically, only for criminal aliens who qualify for the Witness Protection Program under section 3521 of title 18, United States Code, in the discretion of the Attorney General. I would like to ask the Senator if this section, new section 236(c)(2), requires that the criminal alien actually be admitted to the Witness Protection Program, under section 3521 of title 18, before being eligible for release?

Mr. HATCH. Yes. The criminal aliens may be released from custody only if the Attorney General has accepted the alien into the Witness Protection Program. That is reflected in the statutory language specifically providing that the release provision applies "only if" the Attorney General makes a determination pursuant to section 3521 of title 18, United States Code to accept an alien into the Witness Protection Program.

Mr. ABRAHAM. Then, the release criteria regarding the criminal alien's safety to the community, the severity of the offense, and the criminal alien's likelihood of appearing for deportation proceedings are to be applied after the alien has been accepted to the witness protection program?

Mr. HATCH. Yes. Those criteria are intended to limit the circumstances in which criminal aliens who have been admitted to the Witness Protection Program may be released. The statutory language in new section 236(c)(2) clearly provides that those are additional limits on the Attorney General's release authority. The fact that a criminal alien has been admitted to the program is not alone sufficient to justify releasing that alien. In order to release the alien, the Attorney General must also be satisfied that the alien will not pose a danger to the safety of other persons or of property, is likely to appear for any scheduled proceedings, and the Attorney General is required to give due consideration to the severity of the offense committed by the alien.

Mr. ABRAHAM. The Senate Immigration bill included a somewhat different set of criteria for the release of criminal aliens prior to deportation, permitting release only for aliens who are cooperating with law enforcement authorities or for purposes of national security, in the Attorney General's sole and unreviewable discretion. Could you explain the purpose of this change?

Mr. HATCH. The conference report provision is intended to limit the conditions for release permitted in the Senate bill to those necessary to serve the purposes the Senate was trying to accomplish. The Senate provisions may have permitted releases under more circumstances than were truly necessary. To begin with, the conference report does not permit the release of criminal aliens for purposes of cooperating with law enforcement unless the alien has been accepted into the Witness Protection Program pursuant to section 3521 of title 18. Nor does the conference report permit the release of criminal aliens for purposes of national security, because it was difficult to imagine a circumstance in which the release of a convicted criminal would serve our national security interests—unless the criminal had been accepted into the Witness Protection Program.

Thus, I can assure the Senator from Michigan that the central purpose of the Senate amendments regarding mandatory detention—preventing the release of criminal aliens to further prey on American citizens—is furthered by the conference provision to an even greater degree than the Senate provision.

Mr. ABRAHAM. Finally, I have one more question for the distinguished Senator from Utah, regarding the changes made to eligibility of criminal aliens for waivers of deportation or exclusion under old section 212(c) of title 8, United States Code. The Anti-terrorism and Effective Death Penalty Act signed into law earlier this year, as well as the Senate Immigration bill, eliminated the possibility of 212(c) waivers for any criminal aliens who had committed any of several crimes that make aliens deportable under section 241 of title 8, United States Code. The conference report restores 212(c)-type waivers for criminal aliens who have not been convicted of aggravated felonies. Could you explain the purpose of this change?

Mr. HATCH. Let me say first of all that I share the Senator's concern with the procedural abuses under this country's immigration laws that have long been available to criminal aliens. The limitations on 212(c)-type eligibility for criminal aliens in the conference report, which appear in new section 240A(a), is intended to put an end to that. The reason the total bar on 212(c) review for criminal aliens in the Terrorism Act was revised to bar only aggravated felons was that, first, the definition of "aggravated felony" has been expanded to encompass most of the deportable crimes under old section 241,

for which 212(c) review was barred in the Terrorism Act. Second, there was some concern that there might be certain rare circumstances we had not contemplated, when removal of a particular criminal alien might not be appropriate. For example, an alien with one minor criminal conviction several decades ago, who has clearly reformed and led an exemplary life and made great contributions to this country, we believed ought to retain eligibility for a waiver of deportation or exclusion.

Mr. ABRAHAM. So, 212(c) relief—or new section 240A(a) relief—is intended only for highly unusual cases involving outstanding aliens such as the one you describe?

Mr. HATCH. That is correct. The extraordinary circumstances necessary for a grant of 212(c) relief should refer to the insignificance of the crime, and to substantial contributions to society made by the alien. To qualify for section 212(c) or analogous relief, despite the existence of a criminal conviction, an alien will have to show substantial benefits this country from granting the relief—not the potential hardship to the alien from not granting relief. I understand your concern that relief under this section will not be so limited, since it has not been so limited in practice in the past. We believed, however, that passage of the Anti-terrorism and Effective Death Penalty Act sufficiently demonstrated the Congress' serious concern about the abuse of section 212(c), that we could expect Immigration Judges to begin using their discretion under section 212(c) more judiciously. As you know, the Terrorism Act eliminated 212(c) relief for virtually any alien who had been convicted of any crime, including some misdemeanors. Several members believed that only by eliminating Immigration Judges' discretion to grant section 212(c) relief to criminal aliens altogether could we prevent section 212(c) from being used to grant relief too freely. The prevailing view was that the Terrorism Act sent a clear message that section 212(c) was being abused, and that Immigration Judges could be expected to respond to that message and take a hard look at 212(c) relief. The partial restoration of section 212(c) relief for aliens who have not committed aggravated felonies will test that theory.

Mr. ABRAHAM. That, of course, has been my concern. Section 212(c) relief was always intended to apply only to "those cases where extenuating circumstances clearly require such action"—as Congress put it when it enacted section 212(c) as part of the Immigration and Nationality Act in 1952. For the past 8 years, however, 212(c) relief has been granted to more than half of all who apply, the vast majority of whom are criminal aliens, amounting to thousands of criminal aliens per year.

Mr. HATCH. I agree with the Senator. Now that we have restored section 212(c) waivers for a small percent-

age of criminal aliens we expect Immigration Judges to use their discretion under this new section only in unusual cases involving exceptional immigrants whose criminal records consist only of minor crimes committed many years ago. We expect that to be the case under these new provisions.

Mr. ABRAHAM. If the limited restoration of section 212(c) relief does not include reasonable limitations on its use, I will be prepared to work with my colleagues to address that problem. Is my understanding correct that you too will pay close attention to how this provision is interpreted?

Mr. HATCH. Yes. I would also like to let the Senator from Michigan know how much I appreciate his commitment and dedication on this issue.

Mr. ABRAHAM. Thank you. I would likewise thank the Chairman of the Judiciary Committee for his diligent efforts on this issue in conference and his explanation of the conference report's provisions.

TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY

Mr. HATCH. Mr. President, I would like to make several brief comments regarding a provision included in the Economic Espionage Act passed yesterday. That legislation included an amendment I offered when this bill first passed the Senate to permit the transfer of Federal defendants found not guilty by reason of insanity from the inadequate facility of St. Elizabeths Hospital to the custody of the Attorney General.

Each of the approximately 26 inmates affected by this legislation were confined prior to the enactment of the Insanity Defense Reform Act of 1984. Since 1984, Federal inmates found not guilty by reason of insanity have been turned over to the custody of the Attorney General for appropriate treatment. This corrective legislation would extend this treatment to the pre-IDRA confinees.

St. Elizabeths Hospital is in a state of disrepair. According to press reports, the 70-year-old heating system is unreliable and can leave patients shivering in the cold during the winter months. The hospital staff is completely overwhelmed, and shortages of important antidepressant medicines have been reported by doctors.

These conditions should concern us all, and we should seek workable long-term solutions. But, we should deal promptly with current problems. What is particularly troubling is the lack of security at the facility, which is putting the public at risk. There are 26 Federal defendants in the hospital that may be a danger to themselves and others. Among these inmates is John Hinckley, Jr., who attempted to assassinate President Reagan in 1981.

According to the Department of Justice, there have already been three known escapes by these inmates in the