

From the Archives

'Friends in High Places': Background on AAPS v. Hillary Clinton, the Health Care Task Force Lawsuit

Thomas R. Spencer, Jr., Esq.

This memorandum was posted at <http://aapsonline.org/judicial/aapsvclinton.htm>, c. 2000.

Introduction

Prompt Congressional action is required to ensure that criminal and ethical misdeeds associated with attempts to covertly shape the National Health Care Policy do not become whitewashed as a "confusion in lexicon" when in fact there is ample evidence to suggest obstruction of justice by those with friends in high places.

The facts are clear. Early in their administration, the President and First Lady put forth a concept for a massive reordering of our National Health Care System. The bureaucratic details were to be crafted by a secret advisory task force, then rammed through a Democratic controlled Congress in the Administration's first 100 days. This Blitzkrieg was to be headed by the Clintons' friend of thirty years (and the President's Oxford roommate) Ira Magaziner. To insure secrecy and control over the process, Hillary Clinton was named Chairperson and she in turn tasked her law partner (then White House Counsel) Vince Foster to design the legal strategy with the assistance of another law partner, Webster Hubbell (the Associate Attorney General), and friend Beth Nolan, deputy White House counsel.

Federal Advisory Committee Act (FACA)

You will recall that due to abuse and conflicts of interest at the White House during the Nixon Administration, Democrats passed a strict law limiting secret Presidential Advisory Committees so that only those Advisory Committees wholly composed of federal employees were exempted from the requirements that the proceedings and documents be opened to public inspection. During the same era, Democrats proposed and passed the Independent Counsel Law, to prevent Justice Department shenanigans.

Hiding the Working Group Members

Contending that secrecy was required to prevent the plan from being "lobbied" by "outsiders," Magaziner and Mrs. Clinton invited to the Task Force hundreds of friends from the HMO industry and others of like mind and appointed them as Special Government Employees to attempt to "cover" them under the law's exemption.

To hide from Congress the massive expenditures that were associated with the enormous group of private citizens working in secret, the costs of the so-called Working Group Members were spread out covertly among the various departments of the government. And to more quietly provide travel for these people, WorldWide Travel (friends of the Clintons, Harry and Linda Thomason) were utilized instead of the White House Travel Office. Indeed, evidence exists that Hillary Clinton sought the

firing and FBI investigation of the entire Travel Office staff shortly after the Thomasons sought the Health Care Task Force travel business, which was considerable. Also, travel vouchers cited by the court as "germane to exposing this sham" have vanished.

Many of the secret Task Force members were unpaid, most had not submitted to conflict of interest checks or background investigations, and met none of the normal criteria demanded by carefully drawn regulations for federal service. The Justice Department had a special task force, assigned to each working group.

AAPS Files Lawsuit and the Cover Up Begins

When the Association of American Physicians and Surgeons (AAPS) became concerned and demanded to know what was being planned and by whom, they were firmly rebuffed by the White House. In February 1993, they filed suit in federal court in Washington, which infuriated Hillary Clinton. As Webster Hubbell writes in his recent book, Vince Foster was instructed by Mrs. Clinton in a loud voice to "fix it, Vince, handle it, Vince!"

Magaziner, Foster, Hubbell, Nolan, Department of Justice, and White House lawyers were sent scrambling, under intense pressure to avoid the feared scrutiny that a full federal court discovery process would bring. As soon as the lawsuit was served, Magaziner presented to Federal Judge Royce Lamberth in March 1993 a sworn Declaration firmly representing that "only Federal Government employees serve as members of the interdepartmental working group." Based upon that representation, the Judge denied the doctors of AAPS any discovery regarding the 600-plus members of the Working Groups and declared that their identities, work, and documents were exempt from the Sunshine law.

Later, when it became apparent to the federal courts that the makeup of the advisory groups (which had been meeting directly with the President and First Lady), was far different from the representation of the Administration, full discovery was authorized. The Department of Justice, however, delayed and stonewalled the doctors to such an extent for a full year that Judge Lamberth found sanctionable conduct in the midst of the case and ordered the Department to forthwith comply with his discovery orders.

White House Offers Hush Settlement

Meanwhile, the Health Security Act was floundering under Congressional and media inspection as the President continued his ramming strategy. When the Republican leadership and the public found out that what was planned was the federalization of over 14% of the entire economy, even Democratic Senators blinked and headed for political cover. In the fall of 1994, the White House declared the Bill dead and retreated.

By now, however, it was more than clear that the Magaziner Declaration and other statements made to Judge Lamberth were

false. The Department of Justice tried to “moot the case” by making Task Force documents public and quietly offering the doctors money from the Treasury. In return, DOJ wanted secrecy and complete release from all sanctions for the First Lady, Magaziner, and their lawyers. The doctors turned the offer down and pointed to the Court for sanctions against all defendants. They demanded that, at the least, the First Lady, and the other lawyers be sent to Ethics School and be made to pay their legal fees.

When Republican Members of Congress learned of the misrepresentation to the Court and that the expenditure for the Task Force exceeded by at least \$11 million dollars the amount testified to (\$300,000) in appropriations testimony by the White House, they demanded the appointment of an Independent Counsel. Attorney General Janet Reno declined.

The Court Asks U.S. Attorney for Criminal Investigation

Judge Lamberth referred the matter to United States Attorney Eric Holder for an investigation as to whether Magaziner had committed perjury in the case. Not surprisingly, Magaziner and the White House turned to an old friend, Charles Ruff, for representation. Ruff was a friend of Holder, had been the previous U.S. Attorney, and had been touted for the number two position at DOJ.

Ruff lobbied Holder and convinced him that a perjury prosecution would be unsuccessful. Holder declined to prosecute, reporting to Judge Lamberth that while there had been sloppy and overly aggressive lawyering at the White House, there was massive confusion in the “fluid” lexicon of membership of the advisory groups. Therefore, he could find no evidence that the Magaziner Declaration was in fact false, due to this definitional “confusion.” Moreover, he determined that Magaziner did not

intend to obfuscate, but relied upon lawyers. Finally, while he harshly criticized the tactics of Justice lawyers (which he later attempted to water down in a letter to Lamberth), he determined that the death of Vince Foster and the conviction on the other charges of Webster Hubbell would make a prosecution difficult.

AAPS Demonstrates the Cover-up to the Court

The doctors, however, were undeterred. They filed a massive report to the Court on their findings of obfuscation, and pressed the Court for civil sanctions. Judge Lamberth studied the “sufficient” evidence to begin a serious investigation. What was apparently disturbing to Judge Lamberth, hardly a partisan, and to some members of Congress is the lengths to which high government officials went to obstruct justice. But just how high did it go?

And what should be disturbing to Congress and the public at this juncture is that the matter was investigated by a person promoted to a very high office by this President after the investigation, who was lobbied to terminate the case by a person who is now White House Counsel, and that the Attorney General previously declined to appoint an Independent Counsel.

Based upon the recent revelations of Webster Hubbell, the documentary evidence, and the conclusions of Judge Lamberth, there is more than enough basis for ordinary citizens to believe that a major “cover-up” existed at the highest levels of our government.

Congress should now demand the appointment of a Special Counsel to review the issues of obstruction of justice before the Statute of Limitations, which would bar prosecution, expires.

Thomas R. Spencer, Jr., Esq., represented AAPS in *AAPS v. Clinton*.



Aug 4, 1999. Hillary Clinton was on her “listening tour” visiting Jamestown, N.Y., while running for a Senate seat. Then-AAPS president Lawrence Huntoon, M.D., Ph.D., is holding the sign. The Clintons had not yet paid the judgment of \$284,000 they owed AAPS from *AAPS v. Clinton*. Under threat of arrest, police forced him into a cordoned-off area that primarily contained staunch Hillary supporters, most of them union people. Dr. Huntoon was threatened with bodily harm unless he took down his sign and went home. He stayed, and his wife and sister-in-law took photographs of those making the threats in case they were needed for evidence.