

DOJ hit squad goes against White House

by Edward Spannaus

The permanent bureaucracy in the Department of Justice's Criminal Division is at it again. This corrupt group—which Lyndon LaRouche has described as a “political hit squad”—is the real power in the DOJ, and it runs the task force which is currently trying to trump up a fraudulent criminal case on the “Chinagate”/“donorgate” allegations against the White House and the Democratic National Committee.

It has now been reported that there has been a split within the Justice Department between the Criminal Division and the Civil Division, as to whether to back the White House, or Whitewater special prosecutor Kenneth Starr, in the Supreme Court case involving the assertion of attorney-client privilege for notes of discussions involving White House lawyers and the First Lady.

The treacherous Criminal Division was urging that the DOJ support Starr's position, for the reason that the attorney-client privilege makes it more difficult for prosecutors to investigate public officials and bring public corruption cases—“public corruption” being a euphemism for cases targeting elected politicians, such as the Abscam and Operation Frühmenschen cases (framing up black elected officials).

The DOJ Civil Division, on the other hand, argued that this would erode the attorney-client privilege in civil cases in which the government is either suing or being sued, and also that it would make it more difficult for Justice Department lawyers to provide candid legal advice to the White House and other Federal agencies.

The final brief filed by the DOJ on June 6 represented somewhat of a compromise: While it generally supported the White House's assertion of the privilege, it did not contend that the privilege is automatic and absolute, but that it should be decided by the Federal judge overseeing the Whitewater grand jury. The DOJ brief was submitted by Acting Solicitor General Seth Waxman, and—in an unusual procedure—was signed by both the acting head of the Criminal Division (John Keeney) and that of the Civil Division (Frank Hunger). Keeney has been in the Justice Department since 1951; his number two is Deputy Assistant Attorney General Mark Richard, who is overseeing the task force investigating “donorgate” at the present time (see *EIR*, April 25, 1997).

Bush hid behind privilege

One of the ironies of the current attacks by Bush-linked circles on the Clinton White House for invoking the attorney-

client privilege, is that the real abuse of the privilege took place during the Bush administration, when George Bush's own White House counsel misused the privilege to protect Bush and Bush's national security adviser, Donald Gregg, during the Iran-Contra investigation.

As *EIR*'s 1996 *Special Report* “Would a President Bob Dole Prosecute Drug Super-Kingpin George Bush?” documented, Bush was in charge of the Contra gun-running and drug-smuggling operation. Operating under the powers of Executive Order 12333 and National Security Decision Directives 2 and 3, Bush controlled the “secret government” apparatus which ran all the clandestine operations in the 1980s, including those in Iran, Central America, and Afghanistan.

Yet, Bush narrowly managed to escape indictment in the Iran-Contra investigation conducted by independent counsel Lawrence Walsh. The mis-use of the attorney-client privilege by Bush's aides was part of a much broader campaign of stonewalling by Bush, which resulted in Bush slipping away, while many lower-ranking figures were prosecuted.

“The criminal investigation of Bush was regrettably incomplete,” Walsh said in his Final Report.

Bush did not hand over his diary notes to Walsh until *after* the 1992 elections, although Walsh says he had made “early and repeated requests for such documents.”

Bush's White House counsel C. Boyden Gray, as well as Gray's own lawyer, improperly invoked the attorney-client privilege in 1991 in order to avoid answering Walsh's questions about a number of issues, including a polygraph test failed by Donald Gregg, and Gray's interviews of Office of the Vice President staff members when he was an attorney for then-Vice President Bush. Walsh told *EIR* recently that that one of the documents at issue was a memorandum pertaining to setting up a meeting for Felix Rodriguez with Bush's office. (Rodriguez was deployed by Gregg to Ilopango military air base in El Salvador, from where they ran a large-scale guns-for-drugs operation.)

When Walsh's office attempted to question C. Boyden Gray about the Rodriguez memorandum in 1991, Gray refused to answer, claiming “attorney-client privilege.” Yet, Walsh points out, Gregg was not claiming that Gray was his lawyer, so Gray instead claimed the privilege on behalf of Bush.

Walsh said that he believes it was wrong for Gray to use the privilege to protect information about other staff members. However, Walsh does *not* agree with what Whitewater independent counsel Starr is doing today, in attempting to override the White House's claim of attorney-client privilege with respect to the notes taken by White House lawyers in a discussion involving Hillary Clinton. Walsh said that he believes that the attorney-client privilege should be upheld for White House and all government lawyers. Just because someone holds government office, Walsh said, shouldn't mean that when he talks to his client, it isn't privileged.