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Officials Say F.B.I. Knew of Petraeus Affair in the Summer

By SCOTT SHANE and CHARLIE SAVAGE

WASHINGTON — High-level officials at the Federal Bureau of Investigation and the Justice Department were notified in the late summer that F.B.I. agents had uncovered what appeared to be an extramarital affair involving the director of the Central Intelligence Agency, David H. Petraeus, government officials said Sunday.

But law enforcement officials did not notify anyone outside the F.B.I. or the Justice Department until last week because the investigation was incomplete and initial concerns about possible security breaches, which would demand more immediate action, did not appear to be justified, the officials said.

The new accounts of the events that led to Mr. Petraeus's sudden resignation on Friday shed light on the competing pressures facing F.B.I. agents who recognized the high stakes of any investigation involving the C.I.A. director but who were wary of exposing a private affair with no criminal or security implications. For the first time Sunday, the woman whose report of harassing e-mails led to the exposure of the affair was identified as Jill Kelley, 37, of Tampa, Fla.

Some members of Congress have protested the delay in being notified of the F.B.I.'s investigation of Mr. Petraeus until just after the presidential election. Senator Dianne Feinstein, Democrat of California and the chairwoman of the Intelligence Committee, said Sunday that her committee would "absolutely" demand an explanation. An F.B.I. case involving the C.I.A. director "could have had an effect on national security," she said on "Fox News Sunday." "I think we should have been told."

But the bureau's history would make the privacy question especially significant; in his decades-long reign as the F.B.I.'s first director, J. Edgar Hoover sometimes directed agents to spy improperly on the sex lives of public figures and then used the resulting information to pressure or blackmail them.

Law enforcement officials, who spoke on condition of anonymity because of the delicacy of the investigation, defended the F.B.I.'s handling of the case. "There are a lot of sensitivities in a case like this," said a senior law enforcement official. "There were hints of possible intelligence and security issues, but they were unproven. You constantly ask yourself, What are the notification requirements? What are the privacy issues?"

A close friend of the Petraeus family said Sunday that the intimate relationship between Mr. Petraeus and his biographer, Paula Broadwell, began after he retired from the military last year and about two months after he started as C.I.A. director. It ended about four months ago, said the friend, who did not want to be identified while discussing personal matters. In a letter to the C.I.A. work force on Friday, Mr. Petraeus acknowledged having the affair. Ms. Broadwell has not responded to repeated requests for comment.

Under military regulations, adultery can be a crime. At the C.I.A., it can be a security issue, since it can make an intelligence officer vulnerable to blackmail, but it is not a crime.

On Sunday, the same Petraeus family friend confirmed the identity of Ms. Kelley, whose complaint to the F.B.I. about "harassing" e-mails, eventually traced to Ms. Broadwell, set the initial

investigation in motion several months ago. Ms. Kelley and her husband became friends with Mr. Petraeus and his wife, Holly, when Mr. Petraeus was head of the military's Central Command, which has its headquarters at MacDill Air Force Base in Tampa. Ms. Kelley, who volunteers to help injured service members and military families at MacDill, has been photographed with the Petraeuses at social events in Tampa.

"We and our family have been friends with General Petraeus and his family for over five years," Ms. Kelley and her husband, Scott Kelley, said in a statement released Sunday. "We respect his and his family's privacy, and want the same for us and our three children."

The statement did not acknowledge that it was Ms. Kelley who received the e-mails, which was first reported by The Associated Press.

The involvement of the F.B.I., according to government officials, began when Ms. Kelley, alarmed by about half a dozen anonymous e-mails accusing her of inappropriate flirtatious behavior with Mr. Petraeus, complained to an F.B.I. agent who is also a personal friend. That agent, who has not been identified, helped get a preliminary inquiry started. Agents working with federal prosecutors in a local United States attorney's office began trying to figure out whether the e-mails constituted criminal cyber-stalking.

Because the sender's account had been registered anonymously, investigators had to use forensic techniques — including a check of what other e-mail accounts had been accessed from the same computer address — to identify who was writing the e-mails.

Eventually they identified Ms. Broadwell as a prime suspect and obtained access to her regular e-mail account. In its in-box, they discovered intimate and sexually explicit e-mails from another account that also was not immediately identifiable. Investigators eventually ascertained that it belonged to Mr. Petraeus and studied the possibility that someone had hacked into Mr. Petraeus's account or was posing as him to send the explicit messages.

Eventually they determined that Mr. Petraeus had indeed sent the messages to Ms. Broadwell and concluded that the two had had an affair. Then they turned their scrutiny on him, examining whether he knew about or was involved in sending the harassing e-mails to Ms. Kelley.

It was at that point — sometime in the late summer — that lower-level Justice Department officials notified supervisors that the case had become more complicated, and the Criminal Division's Computer Crime and Intellectual Property Section began working on the investigation as well.

It remains unclear whether the F.B.I. also gained access to Mr. Petraeus's personal e-mail account, or if it relied only on e-mails discovered in Ms. Broadwell's in-box. It also remains uncertain exactly when the information about Mr. Petraeus reached Attorney General Eric H. Holder Jr. and Robert S. Mueller III, the F.B.I. director. Both men have declined to comment.

But under the Attorney General Guidelines that govern domestic law enforcement officials, agents must notify F.B.I. headquarters and the Department of Justice whenever they are looking at a "sensitive investigative matter," which includes cases "involving the activities of a domestic public official."

F.B.I. agents interviewed Ms. Broadwell for the first time the week of Oct. 21, and she acknowledged the affair, a government official briefed on the matter said. She also voluntarily gave the agency her computer. In a search, the agents discovered several classified documents, which raised the additional question of whether Mr. Petraeus had given them to her. She said that he had not. Agents interviewed Mr. Petraeus the following week. He also admitted to the affair but said he had not given any classified documents to her. The agents then interviewed Ms. Broadwell again on Friday, Nov. 2, the official said.

Based on that record, law enforcement officials decided there was no evidence that Mr. Petraeus had committed any crime and tentatively ruled out charges coming out of the investigation, the official said. Because the facts had now been settled, the agency notified James R. Clapper, the director of national intelligence, about 5 p.m. on the following Tuesday — Election Day.

Meanwhile, the F.B.I. agent who had helped get a preliminary inquiry started, and learned of Mr. Petraeus's affair and the initial concerns about security breaches, became frustrated. Apparently unaware that those concerns were largely resolved, the agent alerted the office of Representative Eric Cantor, Republican of Virginia, the House majority leader, about the inquiry in late October. Mr. Cantor passed on the agent's concerns to Mr. Mueller.

Officials said Sunday that the timing of the notifications had nothing to do with the election, noting that there was no obvious political advantage for either President Obama or Mitt Romney in the news that the C.I.A. director had had an affair; Mr. Petraeus is highly regarded by both Republicans and Democrats. They also said that Mr. Cantor's call to the F.B.I. on Oct. 31 had not accelerated or otherwise influenced the investigation, which they said had never stalled.

F.B.I. and Justice Department officials knew their handling of the case would ultimately receive immense scrutiny and took significant time to determine whom they were legally required to inform, according to a senior law enforcement official.

"This was very thought-through," the official said.

The law requires that the Senate and House intelligence committees be kept "fully and currently informed" of intelligence activities, which conceivably might cover an investigation into a possible compromise of the C.I.A. director's e-mail account and the possession of classified documents by Ms. Broadwell.

But Justice Department and F.B.I. rules, designed to protect the integrity of investigations and the privacy of people who come under scrutiny, say that investigators should not share potentially damaging information about unproved allegations or private matters unless it is critical for the investigation.

Glenn A. Fine, the inspector general for the Justice Department from 2000 to 2011, said it appeared that the F.B.I. was "legitimately following a lead" about possible criminal wrongdoing or a security breach.

"Some have said the F.B.I. was out to get the C.I.A.," said Mr. Fine, who is now a partner at the law firm Dechert LLP in Washington. "That might have been true 20 years ago. But it is hard to believe that is going on today."

John Prados, a historian and an author on intelligence and its abuses, said the case "posed several dilemmas for the F.B.I." that would have prompted agents and their bosses to proceed gingerly.

"Petraeus is a very important person, so they would want to be crystal clear on exactly what happened and what the implications were," Mr. Prados said. "There was probably a sense that it had to be taken to top bureau officials. And bureau officials probably thought they had better tell the White House and Congress and the D.N.I., or they might get in trouble later," he added, referring to the director of national intelligence.

But if the security issues were resolved and no crime had been committed, Mr. Prados said, there was no justification for informing Congress or other agencies that Mr. Petraeus had had an affair.

"In my view, it should never have been briefed outside the bureau," he said.

Reporting was contributed by Michael S. Schmidt, Eric Schmitt, Mark Mazzetti and Michael R. Gordon.

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Concern Grows Over Top Military Officers' Ethics

By THOM SHANKER

WASHINGTON — Along with a steady diet of books on leadership and management, the reading list at military “charm schools” that groom officers for ascending to general or admiral includes an essay, “The Bathsheba Syndrome: The Ethical Failure of Successful Leaders,” that recalls the moral failure of the Old Testament’s King David, who ordered a soldier on a mission of certain death — solely for the chance to take his wife, Bathsheba.

The not-so-subtle message: Be careful out there, and act better.

Despite the warnings, a worrisomely large number of senior officers have been investigated and even fired for poor judgment, malfeasance and sexual improprieties or sexual violence — and that is just in the last year.

Gen. William Ward of the Army, known as Kip, the first officer to open the new Africa Command, came under scrutiny for allegations of misusing tens of thousands of government dollars for travel and lodging.

Brig. Gen. Jeffrey A. Sinclair, a former deputy commander of the 82nd Airborne Division in Afghanistan, is confronting the military equivalent of a grand jury to decide whether he should stand trial for adultery, sexual misconduct and forcible sodomy, stemming from relationships with five women.

James H. Johnson III, a former commander of the 173rd Airborne Brigade, was expelled from the Army, fined and reduced in rank to lieutenant colonel from colonel after being convicted of bigamy and fraud stemming from an improper relationship with an Iraqi woman and business dealings with her family.

The Air Force is struggling to recover from a scandal at its basic training center at Lackland Air Force Base, Texas, where six male instructors were charged with crimes including rape and adultery after female recruits told of sexual harassment and sexual assault.

In the Navy, Rear Adm. Charles M. Gaouette was relieved of command of the Stennis aircraft carrier strike group — remarkably while the task force was deployed in the Middle East. Officials said that the move was ordered after “inappropriate leadership judgment.” No other details were given.

While there is no evidence that David H. Petraeus had an extramarital affair while serving as one of the nation’s most celebrated generals, his resignation last week as director of the Central Intelligence Agency — a job President Obama said he could take only if he left the Army — was a sobering reminder of the kind of inappropriate behavior that has cast a shadow over the military’s highest ranks.

Those concerns were only heightened on Tuesday when it was revealed that Gen. John R. Allen, the top American and NATO commander in Afghanistan, is under investigation for what a senior defense official said was “inappropriate communication” with Jill Kelley, the woman in Tampa, Fla., who was seen as a rival for Mr. Petraeus’s attentions by Paula Broadwell, who had an extramarital affair with Mr. Petraeus.

The episodes have prompted concern that something may be broken, or at least fractured, across the military’s culture of leadership. Some wonder whether its top officers have forgotten the

lessons of Bathsheba: The crown of command should not be worn with arrogance, and while rank has its privileges, remember that infallibility and entitlement are not among them.

David S. Maxwell, a retired Army colonel now serving as associate director for security studies at Walsh School of Foreign Service at Georgetown University, said that the instances of failed or flawed leadership “are tragic and serious,” but that he doubts there are more today, on a relative scale, than in the past.

Mr. Maxwell noted that Abraham Lincoln and Franklin D. Roosevelt, both wartime presidents, fired many more generals than Presidents George W. Bush or Obama. “These general and flag officers are humans,” he said. “Faced with stress, and a very complex combat environment, people make mistakes. These incidents do not represent the vast majority of our senior leaders.”

Like the troops, wartime commanders are separated from family for long periods, and the weight of responsibility — in a business where the metric of failure is a body bag, not the bottom line — bears heavily.

Still, with drivers and staff, private quarters and guaranteed hot meals, the lifestyle of the top echelon of commanders on the battlefield offers a significant buffer from the hourly rigors of frontline combat endured by the troops. So explanations differ for the lapses.

Paul V. Kane, a Marine Corps Reserve gunnery sergeant who is an Iraq veteran and former fellow of Harvard University’s International Security Program, believes the military is not the only institution facing a problem. “The country is suffering a crisis of leadership — in politics, in business and in the church, as well as in the military,” he said. “We have lots of leaders, but we have a national deficit in true leadership.”

He acknowledged that the post-9/11 stress on the military, from enlisted personnel to commanders, has fractured the very souls of people in uniform. “When you pull people out of family life, repeatedly, over the course of a decade, you are going to fray their most basic relationships with spouses, with children, with their own personal code,” Mr. Kane said.

Other national security experts warn that a decade of conflict shouldered by an all-volunteer force has separated those in uniform — about 1 percent of society — from the rest of the citizenry. Such a “military apart” is not healthy for the nation because the fighting force may begin to believe it operates under rules that are different from those the rest of civilian society follows, and perhaps with a separate set of benefits, as well.

“Our military is holding itself to a higher standard than the rest of American society,” said Kori N. Schake, an associate professor at West Point who has held senior policy positions at the Departments of State and Defense.

“That is beautiful and noble,” she added. “But it’s also disconcerting. Sometimes military people talk about being a Praetorian Guard at our national bacchanal. That’s actually quite dangerous for them to consider themselves different and better.”

In extreme cases, say some military officers and Pentagon officials, the result of this “military apart” is that commanders may come to view their sacrifice as earning them the right to disregard rules of conduct.

They note that if anything positive emerges from an era of increased scrutiny of misbehavior, it will be an invigorated effort to hold the officer corps to account for the way troops are led in combat, for the way the treasury is spent, for the way military leaders wear the mask of command.

And they warn that the problem may get worse before it gets better. While most of the more notable improprieties have been alleged against officers of the ground forces, the Navy, which has not been the fulcrum of the wars of the last decade, is also showing strain. A study by the Navy

Times found more than 20 commanding officers were fired this year for inappropriate behavior and misconduct.

“The Navy’s time in the stress tester is coming,” said Peter D. Feaver, a professor of political science at Duke University. “The number of ships is dropping. The number of tours will increase. Reliance on the Navy instead of the Army to back up foreign policy will become greater over the next decade than the last. If the Navy is cracking under a past decade of strain, what will it mean for the Navy when it is in the hot seat?”

Notes

¹<http://www.nytimes.com/2012/11/12/us/us-officials-say-petraeuss-affair-known-in-summer.html>

²<http://www.nytimes.com/2012/11/13/us/petraeuss-resignation-highlights-concern-over-military-officers-ethics.html>