

FOIA MARKER

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Folder Title:

FBI Files Matter - Documents / Statements [1]

Staff Office-Individual:

Counsel's Office-Nemetz, Miriam

Original OA/ID Number:

CF 446

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June 14, 1996

Jack:

I am writing in response to Jane's note to you about why Billy Dale's security file was singled out for production. The answer is two-fold.

First, I arrived at the White House on February 14, 1996 -- less than 2 weeks before the date set for production of documents responsive to the January subpoena. Natalie was leaving and I learned what I could from her before I left. She told me that if we ever produced Billy Dale's personnel file to call Craig Livingstone for the personnel file he had for Billy Dale. I also understood from the preparation work for the meeting on Feb. 15 with Chairman Clinger that the personnel file was offered for in camera review for "privacy" reasons. Accordingly, in the White House Feb. 26 response to the subpoena -- I specifically wrote, in response to No. 29, that we were not producing Billy Dale's file to accommodate these privacy concerns. No one suggested to me then (or now) that there were any other such responsive files. If there were, they should have been identified to me in February so I could have referred to them in my response to Clinger.

Second, Billy Dale's file was produced pursuant to No. 29 which called for all records relating to Billy Dale. The only other such broad request in the subpoena concerns Harry Thomason. So the only other possible file that would have been caught was his. I have no idea whether or not there is such a file. I understood, however, that we were reading this request as limited to Harry Thomason's activities in the White House -- so it is possible that a decision was made that his background file was not responsive.

Finally, I should add that, although I believe we were required to produce the Billy Dale file pursuant to the subpoena, it was not my decision to do so. The reason articulated to me for not producing it earlier was the Privacy Act concern - although the Act does not cover the White House and, of course, has a specific exemption for disclosure of files to the Senate or House. Whenever we discussed production of the personnel file -- a "Category 3 record" -- the consensus was that we would give it to the Committee together with the rest of this material.

Wendy

cc: Jane

FACT SHEET ON FBI FILES OBTAINED BY THE WHITE HOUSE

-- Update --

Obtaining FBI reports on those with access to the White House has been a routine practice of this and past Administrations.

- The files provided by the FBI contain summary reports of FBI background checks, not raw data.
- Copies of such FBI reports have been routinely obtained from the FBI and maintained by the White House personnel security office on every person with access to the White House -- by this and prior Administrations.
- The procedures that have been used in this Administration appear to have been in place for the last 30 years. In fact, the request form was used by Bush Counsel C. Boyden Gray and Reagan Counsels Arthur Culvahouse and Fred Fielding.
- The volume of requests from each Administration has been substantial. According to the FBI Report, by 1968, the volume of requests was estimated at 10,000 per year.

The Bush Administration removed and archived all FBI files it had collected and maintained of all those who had access to the White House during that administration.

- The Bush White House cleaned out the personnel security files of all White House employees and other with access -- including those belonging to White House employees who remained employed in the Clinton White House and those who continued to have a legitimate need for access.
- In mid-1993, the White House's personnel security office undertook to recreate files for the White House employees held over from the Bush Administration.

Anthony Marceca was assigned responsibility for recreating the security personnel files of the holdover employees.

- Mr. Marceca, a civilian detailed from the Army, was known to Mr. Livingstone, the former Director of the Office of Personnel Security, from their work together on political campaigns.
- According to his sworn statement, Mr. Marceca relied on a Secret Service access list obtained from a long-time veteran of the office, Nancy Gemmell, who had experience from prior administrations with the procedures for obtaining FBI files.

Fact Sheet

FBI Files Obtained by the White House

Page 2

- The Secret Service list provided to Mr. Marceca included Billy Dale and former Bush and Reagan Administration political appointees, as well as others who were properly included.
- The Army detailee proceeded to make requests for FBI reports for names on the Secret Service list -- from A through G -- before his detail concluded.
- The list provided by the White House of the individuals whose files were mistakenly updated is NOT the list used by Mr. Marceca.
- This list was compiled by the staff member, Lisa Wetzl, who took over the project from Mr. Marceca after his detail ended.
 - Ms. Wetzl identified Mr. Marceca's mistake and sent the files that she determined should not have been requested to the archives maintained by the White House Office of Records Management. She prepared the list of 341 names to accompany the files.
- When senior White House officials learned of the files archived by Ms. Wetzl on June 6, 1996, they promptly -- that night -- turned 333 of them over to the custody of the FBI. (A small number of the files turned out to have been for current employees, so the White House maintained custody.)

The FBI identified what they believe to be all such requests made by Mr. Marceca.

- The FBI list included the 341 names on Ms. Wetzl's archive list as well as an additional 138 names. The FBI asked that the White House determine whether any of the requests for these individuals had been made mistakenly.
 - The White House determined that 47 of these requests had been made properly, 74 were mistaken, and 17 were inconclusive.
- The White House returned 71 of the 74 mistakenly requested files to the FBI on June 13, 1996. (Two of the 74 files related to individuals who currently have access. The remaining file had been returned earlier in the week.)
- The total number of mistakenly obtained files was 408.

The President has apologized to those whose FBI summaries were obtained in the mistaken belief that they still had access to the White House in 1993.

- This appears to have been an inexcusable mistake that resulted from reliance on outdated access lists.
- We have no indication whatsoever that information from the files was ever improperly used.
 - Mr. Livingstone and Mr. Marceca have issued sworn statements attesting that requests for and use of these FBI files were not for any improper purpose.

The White House is NOT conducting its own separate investigation into this issue.

- The Independent Counsel and the FBI are investigating the circumstances under which the White House obtained FBI background files in 1993-94.
- The White House is cooperating with these inquiries and is confident that once these examinations are complete and all the facts emerge the American people will see this for what it appears to be: an innocent bureaucratic mistake.

The White House's position on this FBI files issue has been consistent.

- The White House has said from the beginning that it appears that the FBI files, including Billy Dale's file, were mistakenly obtained by a detailee from the Army as part of a larger effort by the White House to update its files on White House employees.

The White House chose not to invoke executive privilege over Billy Dale's personnel records.

- The White House informed Chairman Clinger, at least as early as February 15, 1996, that it had personnel records responsive to the Committee's subpoena -- including those of Billy Dale -- that it was reluctant to provide to the Committee because of privacy concerns. The White House proposed that the Committee review the records without keeping copies.
- Chairman Clinger rejected the White House offer to review the personnel records. Instead, he demanded a formal assertion of executive privilege over all documents responsive to the Committee subpoena that had not been turned over.
- In order to preserve its rights, the White House asserted a "protective" claim of executive privilege over all documents not yet provided to the Committee. The Billy Dale personnel file was swept into this protective claim.
- The protective claim gave the White House time to review each of the documents that had not been provided to the Committee and determine which ones it would withhold on executive privilege grounds and which it would give to the Committee.
- The White House determined that it would not assert executive privilege over the Billy Dale security personnel file. As Chairman Clinger had halted all efforts to negotiate the manner in which the Committee would receive documents, on May 30, 1996, the White House simply produced the file.

June 18, 1996

The Honorable William J. Clinton
The White House
Washington, DC

Dear Mr. President:

As private citizens who have served on the White House staff, we were shocked to learn that our FBI files have been misused by Administration officials over a three-year period.

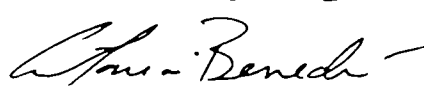
We feel honored to have been allowed to serve in the White House. We understood before we did so that this honor carried the price of permitting the Government to investigate every detail of our personal lives in order to safeguard our national security and the safety of the President and his family. We therefore freely submitted to meticulous investigation by Federal agents. We disclosed our medical histories and personal finances. Our wives and husbands, relatives and friends, neighbors, acquaintances, and business associates--anyone who could speak to our backgrounds and our character--answered detailed questions about us. Nothing about us and our families was withheld. We sacrificed our privacy in this way because we confidently believed that the information we provided would be handled responsibly and held in absolute confidence. We trusted that it would be used solely to protect the President, his family, and our national security.

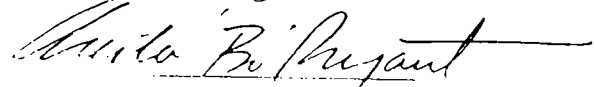
Now we have learned that our trust was misplaced. Long after we left the White House, your staff--with no legitimate purpose or excuse--ordered the material we provided retrieved, reviewed for derogatory information, and retained at the White House for almost your entire Presidency.

It is impossible to adequately express the shock each of us feels at this betrayal of our trust. Though you have ascribed this extraordinary breach of faith to a bureaucratic error, a host of unanswered questions remain that bear directly on your Administration's integrity, and that raise issues about White House abuse of the FBI which, until last week, we had thought settled two decades ago. The undisputed facts that have emerged to date reveal, at a minimum, inexcusable negligence on the part of your staff, and a total disregard for the privacy of private citizens.

We are sure that you will understand the great pain this revelation has caused, not only to us, but to our wives and husbands, our parents and our children. Because the President is responsible for the integrity of the White House, we respectfully request that you promptly clarify how you propose to bring to account all those who allowed this inexcusable misconduct to occur, and what answers you can provide to the many questions arising from this blatant abuse of our trust. We ask that you immediately discharge the officials responsible for this outrage. And we ask that you personally take responsibility for ensuring that these abuses will never recur.

Sincerely,

Katja Bullock

Dary J. Andes

Paul W. Esteman

Sam S. Fisher

Alvin S. Feinberg

Joey Russell George

Lee Guther

Lucy Elkins

Joseph P. Duggan

Andrew Pope Harrington

Caroline Citchfield

Jeri Bacter

Steven W. Gibson

Anta Bergina McBride

Maria Mellon Burns

John H. Fish

Debra Roman Dunn

Beth Gable

Bobby Charles

Katie Baur

Ellen Gobar

Maureen Coon

Jeanne D. Fletcher

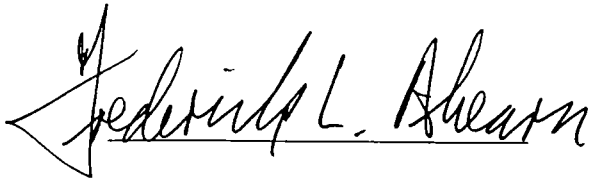
Rebecca J. Anderson

Linda Grey Skedany

Mr. M. Bell

Mary Kate Causal

Tracy Davis Garrett

William L. Ahearn

Bobby E. Carr

Shirley Glen

Ken Carmichael

Todd Bucholtz

Dianne Butterfield

Janice Shaw Crouse

Laurie Firestone

Clark Ervin

Clayton Fong

Spence Geissenger

Porter Davis

Katherine Brady Cutler

Barbara Blackburn Forbes

Justine D'Andrea

Graven Craig

Cameron Findley

Lynne Fletcher O'Brien

Helen Abdoo King

William Butterfield

Joyce Campbell

Ronald Brown

Les Csorba

Susan Denniston

Debra Anderson

Jean Becker

Louise Bell Devanny

Francis Dietz

Patricia Conrad

Leah Geraghty

Marcy Anderson Saliba

Patricia Cox

Aileen Finger Mitchell

Doug Duvall

Shara Castle

Kristen Gear

Karen Giorno

Chad Farmer

Elizabeth Board

Donna Barron

Jay Bybee

Christina Erland Culver

Ray Briscuso

Deborah Balfour Crabtree

Michael Astrue

Charles Bacarisse

Allison Cryor

Neil Burnham

Jean Ann Balestrieri

Keri Douglass

Chuck Bates

Erlinda Casey

Carolina Bonino

Gary Fendler

Jeanie Figg

Sandra Bushue

Kristene Dietz

Mary Stewart Bailey

Gary Foster

Billy Dale

Signatories whose names are typewritten were unable to sign the letter personally, but reviewed it and directed that their names be added to it.

Signed

Ben Cohen
Karen Goff
Anita McBride
Bo Bryant
Katja Bullock
Diana Dillon
Gary Andres
John Fish
Paul Bateman
Debra Dunn
Sarah Fehrer
Beth Gable
Bobby Charles
Alvin Felzenberg
Russell George
Kathleen Baur
Sue Author
Ellen Gober
Lucy Elkins
Matt Crow
Joseph Duggan
Tony Benidi
Lisa Battaglia
Jeane Fletcher
Joyce Garlington
Becky Anderson
Caroline Critchfield
Frederick Ahearn
Linda Arey Skladany
Marianne Bell
Mary Carroll
Stevan Gibson
Tracy Davis Garrett
Bobby Carr
Alix Glen
Terry Carmack

Typed Names

Patricia Conrad
Leah Geraghty
Marcy Anderson Saliba
Patricia Cox
Justine D'Andrea
Aileen Finger Mitchell
Doug Duvall
Shara Castle
Kristen Gear
Karen Giorno
Chad Farmer
Elizabeth Board
Donna Barron
Jay Bybee
Christina Erland Culver
Ray Briscuso
Deborah Balfour Crabtree
Michael Astrue
Charles Bacarisse
Allison Cryor
Neil Burnham
Jean Ann Balestrieri
Keri Douglass
Chuck Bates
Erlinda Casey
Carolina Bonino
Gary Fendler
Jeanie Figg
Sandra Bushue
Cameron Findley
Todd Bucholtz
Helen Theresa Abdoo King
Dianne Butterfield
William Butterfield
Janice Shaw Crouse
Joyce Campbell
Laurie Firestone
Ronald Brown
Clark Ervin
Les Csorba
Clayton Fong
Susan Denniston
Spence Geissinger

Porter Davis
Jean Becker
Katherine Brady Cutler
Louise Bell Devanny
Barbara Blackburn Forbes
Francis Dietz
Kristene Dietz
Mary Stewart Bailey
Graven Craig
Lynne Fletcher O'Brien
Gary Foster
Debra Anderson
Billy Dale



Issue Brief

Senate Judiciary Committee

TO: Republican Steering Committee
FROM: Senator Hatch
SUBJECT: Ex-file Developments
DATE: June 26, 1996

There have been a number of developments in the controversy concerning the White House's access to sensitive FBI background files.

1. Marceca's new list. Anthony Marceca sent the Committee last night several documents that he had kept on computer disk during his time at the White House. It now appears that Mr. Marceca requested the F.B.I. files on about 300 additional current and former White House staff. It appears that these files also were received beginning on September 20, 1993. Several of these individuals, such as Brent Scowcroft, were high-ranking Republicans who worked for the National Security Council. We are currently analyzing the list.

2. Shapiro. We received a letter last night from Harold Shapiro, the General Counsel of the FBI. It reports that the FBI has discovered another 216 requests for FBI background files. Some of these overlap with Marceca's additional 300 names. We do not yet know whether the White House improperly requested these files, and our investigation will continue.

3. Livingstone. As you all may know, Craig Livingstone declared this morning during the House hearings that he will resign from the White House effective immediately.

4. Computer System. As you may have seen, it appears that the White House has created a giant database that contains personnel information on numerous outside individuals, including Senators and members of the press. It has been reported that the computer could hook into the Secret Service passholder database, and that the DNC could access the computer. It also has been reported that the computer could store FBI information, but we have no verification if this indeed occurred. The Judiciary Committee will be conducting an investigation into this as well.

5. Document Request & Fingerprints. I will request this week that the White House turn over all documents, e-mails, messages, logs, phone records and any other information related to the White House's access to these FBI files. I also will ask the FBI to fingerprint the files.

5. This Week's Hearing. We will call to testify before the Committee Craig Livingstone and Anthony Marceca. We also will call Lisa Wetzel, the White House staff assistant who discovered Marceca's list and destroyed it, and possible a staffer on the Senate Intelligence Committee who reviewed the White House Security Office in 1994 and found it sorely lacking.

Further Questions: Should you have any questions please call Judiciary Committee staff at 224-5225. Ask to speak with Mark Disler, Manus Cooney or John Yoo.

THE WHITE HOUSE

WASHINGTON

June 27, 1996

MEMORANDUM

TO: JACK QUINN
JANE SHERBURNE

FROM: WENDY WHITE

RE: PROCEDURES FOLLOWED FOR CONGRESSIONAL REVIEW OF
EXECUTIVE PRIVILEGE DOCUMENTS

Introduction

On June 27, 1996, at 8:00 a.m., I took the documents, over which the President had asserted executive privilege, to the Committee on Government Reform and Oversight. I was accompanied by another lawyer from the Office and an intern. There was a camera crew in place and the Committee staff and Chairman were awaiting our arrival.

Instructions

We immediately took the documents to the Committee hearing room where they were placed on the table for review. The following instructions were provided:

1. The documents were available for review only, no copies were to be made.
2. Notes identifying the documents were permitted, but no verbatim notes were to be taken.
3. The documents were available for review by the Committee staff and Members only.
4. We would remain in the room as the documents were reviewed.

Everyone indicated their understanding of, and agreement with, the procedures.

The Review by the Majority

The following people reviewed the documents on behalf of the Majority Staff:

1. Chairman Clinger (for about 30 minutes)
2. Congressman Davis (for about 15 minutes)
3. Barbara Olson

4. Barbara Comstock
5. Laurie and Christie (Committee junior staff)

The following people from the White House were in the room:

1. Wendy White
2. Jon Yarowsky (for part of the time)
2. Anna Chavez (a lawyer detailee working on document production)
3. An intern (who carried the documents for us)

The review lasted from 8:40 to 12:30 pm. The staff took notes which we, of course, did not see. They spoke some among themselves, but not too much. They did not ask us any questions other than whether they had all the privileged documents which the Chairman asked for. We said they did.

Review by the Minority

In the afternoon we returned to Congress to show the documents to the Minority Staff. The review lasted from approximately 4:15 - 6:00 p.m. David Schooler, Don Goldberg and Ron Stroman reviewed the documents. They took no notes. I was in the room alone with them since it was a small room.

Mrs. Collins has asked to review the documents on Friday, and we will make them available at 9:00 a.m.

Future Review and Procedures

The Majority staff indicated that they wanted to review the documents from 8:00 a.m. to 12:00 on Monday, July 1, 1996. We agreed.

We understand that Chairman Clinger may request copies of specific documents.¹ If he does so, we will meet with Chairman Clinger and Mrs. Collins to consider whether any portion of each requested document relates to the FBI files matter or reveals wrongdoing. We will then produce only the appropriate portion of the document.

Any document that the White House produces, pursuant to agreement, will be copied for the Majority and the Minority staff and made public.

¹ Barbara Olson said that she was going to send a letter requesting a list of each of the documents on the log, since the log only identifies documents by group.

WC

ELI J. SEGAL

7/2/96

Statement

In December, 1992, at his request,

I agreed to "sponsor" Craig Livingstone for a position on the advance staff in the Clinton Administration. I did so based on the able work he performed on the advance staff in the Clinton Gore presidential campaign in 1992 and in the California primary of the Hest presidential campaign in 1984.

Eli J. Segal

STATEMENT

Mark D. Fabiani
Special Associate Counsel to the President

June 28, 1996

Although Mr. Marceca had the right to do what he did today, we are disappointed that the public's right to know all the facts has been partly blocked for the time being. The President has reaffirmed his instructions to White House staff to cooperate fully to provide the complete facts to the public.

BACKGROUND TALKING POINTS

Other Reaction

The President has condemned the invasion of privacy that resulted from unacceptable actions taken in the White House's effort to recreate the security personnel files of its holdover employees. No one is more determined than the President to get to the bottom of this. The President has apologized to those whose files should not have been obtained.

Immunity?

The question of immunity must be answered by the Independent Counsel and the Congress. The White House has only one interest here: Getting all of the facts out to the American people.

White House Knowledge of Marceca's Decision

Mr. Marceca's lawyer informed White House Special Counsel Jane Sherburne of Mr. Marceca's preliminary decision near midnight on Thursday, June 27. We did not know what Mr. Marceca's final decision would be until it was announced at the Senate hearings.

White House Efforts to Persuade Marceca?

Mr. Marceca is not a White House staff member and we are not in any position to encourage or discourage any action on his part. The President has re-affirmed his instructions to White House staff to cooperate fully to provide the complete facts to the public.

Throughout numerous Congressional hearings on Whitewater, the Travel Office and other matters, scores of White House witnesses have testified. All of these witnesses have testified openly and voluntarily; not a single one of these White House employees has invoked any kind of privilege or attached any sort of conditions to his or her testimony.

THE WHITE HOUSE
WASHINGTON

June 25, 1996

MEMORANDUM FOR WHITE HOUSE COUNSEL'S OFFICE STAFF

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: BACKGROUND INVESTIGATIONS

I think it is important for everyone in the Counsel's Office to be familiar with the reforms we have made regarding requests to the Federal Bureau of Investigation for background investigations. I have attached two memoranda that explain these new procedures. In particular, you should make special note of the rule that no one on our staff except those authorized in writing by the Chief of Staff and me have any access to background investigation files.

A handwritten signature in black ink, appearing to read 'Jack', with a long horizontal stroke extending to the right.

Attachments

THE WHITE HOUSE
WASHINGTON

June 14, 1996

MEMORANDUM FOR LEON PANETTA
CHIEF OF STAFF

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: WHITE HOUSE REQUESTS TO THE FBI

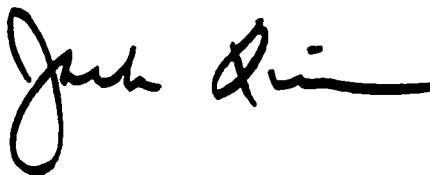
As you know, the White House has historically requested information from the FBI in order to evaluate the suitability of persons for Presidential appointments, nominations and recognition, employment at the White House, and access to the White House. In light of recent events, I have instituted the following rules and procedures to cover White House requests to the FBI for background investigation information, effective immediately:

1. White House requests to the FBI for background investigation information will be made only with the express written consent of the individual who is the subject of the investigation.
 - This rule applies to requests for any information beyond the type of computerized criminal history check required in the regular appointment clearance process at the White House complex.
 - The individual's consent must be current. Specifically, it must have been signed by the individual within thirty days of the White House request to the FBI.
 - The individual's express written consent must accompany the request made by the White House to the FBI for the information.
 - No information may be obtained without the individual's consent except in extraordinary circumstances set forth in a letter of justification to the General Counsel of the FBI signed by the Counsel to the President and concurred in by the Attorney General or the Deputy Attorney General.

2. Each request to the FBI must be approved and signed by the Counsel to the President or a specifically designated Counsel's Office attorney whose regular duties include the review of such information. Each request must also be signed by the security or vetting officer who initiates the request.
 - Signing for or in the name of another is prohibited.
 - The security or vetting officer who initiates the request must certify that the request is made for official purposes only.
 - The Counsel to the President will provide to the FBI the names of no more than three Counsel's Office attorneys who, in addition to the Counsel, are authorized to approve White House requests to the FBI for background information. No other persons may approve such requests.
3. Each request must identify the reason why the information is being requested (e.g., Presidential nomination, White House staff security clearance).
4. Only those White House employees authorized in writing by the Chief of Staff and the Counsel to the President whose assigned duties require the review or processing of such information will have access to FBI background investigations.

* * *

We communicated these changes, in proposed form, to the relevant officials of the FBI in order to make sure that our procedural reforms will be workable when taken together with changes the FBI is considering. These reforms were acceptable to the FBI and, so, we are now moving forward with them. In addition, I am requesting that the FBI assist us as promptly as possible in a thorough review of the background investigation files that we currently have to make sure that all of the files that were requested mistakenly have been returned to the FBI.



THE WHITE HOUSE
WASHINGTON

June 18, 1996

MEMORANDUM FOR LEON PANETTA
CHIEF OF STAFF

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: WHITE HOUSE OFFICE OF PERSONNEL SECURITY

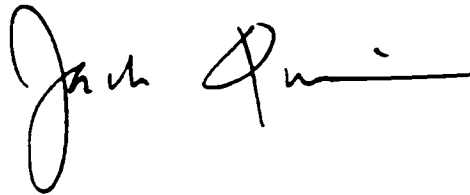
At present, the White House Office of Personnel Security conducts personnel security operations for the White House Office, the Office of the Vice President, the Office of Policy Development, and the Executive Residence. The Executive Office of the President (EOP) Security Office conducts personnel security functions for all other EOP offices except for the National Security Council (NSC), which conducts its own personnel security review in coordination with the White House Office of Personnel Security. Specifically, the EOP Security Office, which is part of the Human Resources Management Division of the Office of Administration, currently provides personnel security services to the following EOP agencies: Council of Economic Advisers, Council on Environmental Quality, Office of Administration, Office of Management and Budget, Office of National Drug Control Policy, Office of Science and Technology Policy, and the United States Trade Representative.

As you know from my memorandum to you of June 14, 1996, I have instituted a number of reforms to govern the procedures for White House requests to the Federal Bureau of Investigation (FBI) for background investigation material. In addition to those reforms, I recommend that the administrative personnel security functions currently performed by both the White House Office of Personnel Security and the NSC be incorporated into the EOP Security Office. In effect, this would mean that the EOP Security Office would serve on behalf of the White House in performing these functions with regard to White House Office, the Office of the Vice President, the Office of Policy Development, the Executive Residence, and NSC personnel. I believe that the reforms I instituted last week -- such as requiring the current, signed consent of the individual about whom information is sought to accompany White House requests of the FBI -- will be implemented most effectively and efficiently by merging the several existing security operations into the administrative office that currently performs security functions for the EOP.

The EOP Security Office is currently supervised by Charles "Chuck" Easley, who is a career employee hired during the Reagan Administration and who has served for ten years as the EOP Security Officer. Mr. Easley retired from the U.S. Army after 20 years. He served for 12 years as a Counterintelligence Special Agent in the Army, and for eight of those years, he served as the Technical Security Advisor to the Security Officer of the Joint Chiefs of Staff. Mr. Easley, heads a career staff at the EOP Security Office, will continue to report to the Associate Director for Human Resources Management of the Office of Administration, a career personnel specialist, who, in turn, reports to the Director of the Office of Administration.

If you approve this recommendation, the EOP Security Office will conduct its work on White House personnel in accordance with the procedures established by the Counsel to the President. As always, suitability decisions will remain the responsibility of Counsel to the President. In addition, all background investigation material regarding White House personnel will remain under the control of the Counsel to the President and will be maintained separate and apart from EOP personnel security files.

Under the new procedures I established last week, requests to the FBI for background investigation information on White House personnel will require -- in addition to the current, signed consent of the individual -- the approval of the Counsel to the President or specifically designated attorneys in the Counsel's Office. Furthermore, under the proposed plan, access to FBI background investigations would be limited to those White House and EOP employees authorized in writing by the Chief of Staff and the Counsel to the President whose assigned duties require the review or processing of such information.

A handwritten signature in black ink, appearing to read "Jack Quinn". The signature is fluid and cursive, with a long horizontal stroke at the end.

FACT SHEET ON CHRIS EMERY

- The FBI conducts reinvestigations of White House employees every five years. Chris Emery, who worked as an usher in the White House Residence, has alleged that in 1993 the White House accelerated his FBI reinvestigation, which was not due to be conducted until 1996. He alleges that the White House used the information in his completed forms as the basis for terminating his employment.
 - Mr. Emery is not a civil service employee. His service was at the pleasure of the President.
 - Mr. Emery was terminated in early March of 1994. According to news accounts, Mr. Emery was released from service because he showed "an incredible lack of discretion." News reports in 1994 reported that Mr. Emery had discussed personal matters about the Clintons with Mrs. Bush.
- The FBI conducted Mr. Emery's first background investigation in 1986; as required, he was reinvestigated by the FBI in 1991.
 - The Office of Personnel Security ("OPS") requested Mr. Emery's reinvestigation in 1993 because it had no record that Mr. Emery had been reinvestigated in 1991.
 - On September 27, 1993, the FBI responded to a request by OPS (as part of OPS' effort to update its files) for Mr. Emery's previous FBI reports by providing **only** the report from his 1986 background investigation. Based on this information, it appeared that Mr. Emery was overdue for a reinvestigation.
 - The White House requested Mr. Emery to complete the various forms to commence a reinvestigation in November 1993. On January 5, 1994, the FBI received the paperwork necessary to start a reinvestigation, which included a consent form signed by Mr. Emery on November 15, 1993.
 - Mr. Emery refused to complete the Personal Data Statement Questionnaire, but did complete the waiver for an IRS tax check.
 - An informal communication between the FBI and OPS on January 7, 1994 uncovered that the FBI had failed to provide OPS with a copy of the 1991 FBI summary report in its request for previous reports sent in September 1993. As

a result of identifying this error, the FBI did not initiate a background investigation and instead provided a copy of the 1991 previous report to OPS.

- The allegation that the White House would have requested an early reinvestigation of Mr. Emery's file to justify his termination does not make sense: Mr. Emery served at the pleasure of the President and could have been asked to leave at any time.
- Neil Lattimore commented upon allegations that the First Lady was involved with the obtaining of Mr. Emery's background summary file, "She doesn't know about any of this. We don't need any files to fire a worker who serves at the pleasure of the President."

FOR ORCA

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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

July 15, 1996

Manus M. Cooney
Staff Director
Committee on the Judiciary
United States Senate
Washington, D.C. 20746

Dear Mr. Cooney:

By letter dated July 12, 1996, from you to Director Freeh, you asked several questions concerning requests made by the White House for background investigations or five-year reinvestigations on White House employees.

I am providing the responses to questions one through five since you requested this information by COB today. I will be in touch with Melissa Riley for clarification with regard to the remaining question.

Please let me know if I can be of any further assistance.

Sincerely yours,

John E. Collingwood
Inspector in Charge
Office of Public and
Congressional Affairs

Margaret R. Owens
By: Margaret R. Owens
Unit Chief

Enclosure



RESPONSES TO JULY 12, 1996 LETTER

1 - The date the FBI received a request for previous FBI background reports on Mr. Emery.

A review of Christopher Beauregard Emery's background investigation folder reflects that a request was received from the White House on September 22, 1993 for previous reports.

A review of the informal work papers maintained in the Special Inquiry and General Background Investigations Unit (SIGBIU) (as it is now known) reflect that a second request for previous reports was made on January 6, 1994.

2 - The date the FBI forwarded copies of Mr. Emery's background investigation to the White House.

A review of Christopher Beauregard Emery's background investigative file reflects that on September 27, 1993, the FBI's Executive Agencies Subunit (EASU) (as it is now known), provided the White House with the March 11, 1986 Summary Memorandum reflecting the results of Mr. Emery's background investigation.

Further, on January 7, 1994, the SIGBIU provided the White House with another copy of the March 11, 1986 Summary Memorandum as well as a copy of the January 9, 1991 Summary Memorandum reflecting the results of the five year re-investigation.

3 - Provide the year(s) in which Mr. Emery was the subject of FBI background investigations.

A review of Mr. Emery's background investigation file reflects that a background investigation was received on February 10, 1986 and the Summary Memorandum was dated March 11, 1986. The five year re-investigation request was received on August 20, 1991 and the Summary Memorandum was dated January 9, 1991.

4 - Were all of Mr. Emery's FBI background reports forwarded to the White House?
Yes

If so, on what date(s)?

See answer to Number 2 above.

What office were the reports sent to?

The reports were provided to the White House Office of Security.

(*)

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5 - According to Mr. Emery, he submitted completed SF-86 forms to the White House in December 1993 to initiate an update FBI background investigation. Please advise me regarding the following matters:

(a) Did the FBI ever receive Mr. Emery's 1993 SF-86 form?

A review of the informal work documents maintained in the SIGBIU reveal that the White House submitted a form dated December 15, 1993 requesting a full field investigation for Mr. Emery. Notations on the form show it was received on January 5, 1994. Attached to the form was a consent form for a background investigation dated November 15, 1993 and signed by Mr. Emery as well as a completed SF-86 which was signed on December 11, 1993. (Four other forms were received at that time as well.) By informal communication to Mary Anderson, White House Office of Security dated January 7, 1994, Mr. Emery's SF-86 and consent form was returned to the White House along with the other four requests and support documents. That informal communication noted that the White House may not have received the latest five year reinvestigation Summary Memorandum which was being enclosed along with the 1986 Summary Memorandum. Further, the White House was advised that the FBI was not initiating a background investigation on Mr. Emery or the other four individuals.

(b) Please provide the date the SF-86 form was received by the FBI.

January 5, 1994

(c) Was an FBI background initiated for Mr. Emery in 1993?

No

(d) Was a background investigation completed on Mr. Emery in 1993?

No

If not, was the investigation initiated but terminated prior to completion?

No investigation was initiated.

(e) If the investigation was terminated, please provide any correspondence or notification the FBI received to terminate the investigation. Provide the date the notification for termination was received.

Since the investigation was not initiated there was no termination date.

6 - Please provide any materials the FBI has on any efforts on the part of the White House since January 20, 1993 to initiate any other updates of background investigations prematurely, including those referenced in Mr. Bourke's interview and any others.

Response to this inquiry will be provided separately.

White House Spin Cycle

Did you know that White House Counsel Jack Quinn called FBI General Counsel Howard Shapiro to read him the attached letter before he sent it to the FBI?

When Director Freeh took over as head of the FBI, he told President Clinton that “the FBI must maintain its independence and have no role in politics. President Clinton fully agreed...No politics in the FBI; no exceptions.” (FBI Annual Report, 1994)

As Chairman Clinger noted in his opening statement, “we also learn that Mr. Quinn’s recent letter to FBI Director Freeh attacking the credibility of FBI agents and attacking me personally, was first read to Mr. Shapiro to get his opinion on the tone and content of the letter. Is this in keeping with Director Freeh’s wishes to keep the FBI independent and out of politics?”

Since when does the FBI General Counsel offer editorial comment on politically-motivated letters from the White House Counsel attacking a House Committee Chairman and a long-serving, well-regarded FBI agent?

THE WHITE HOUSE
WASHINGTON

July 25, 1996

BY TELECOPY

Louis J. Fresh
Director
Federal Bureau of Investigation

Dear Director Fresh:

As you may know, Congressman Clinger today divulged, on the House floor, an interview report from a confidential FBI background investigation that has been declared to be false by the person who was interviewed. I am writing to you to ask how we can work together to ensure continued public confidence in the accuracy of FBI investigations.

According to Mr. Clinger's statement today, the background investigation file on Mr. Craig Livingstone includes a report by Agent Dennis Sculimbrana on a conversation he says he had with White House Counsel Bernard Nussbaum concerning Mr. Livingstone's hiring. But, according to a statement issued by Mr. Nussbaum today, that conversation never took place.

This Administration and the American people have enormous confidence in the FBI, for good reason. And, the role that the agency plays in conducting background investigations and helping to ensure the suitability of appointees for their posts cannot be overstated. The President, you and the American people have a large stake indeed in the fairness and accuracy of this process.

That is why we are troubled, as we know you must be, by the implication that an FBI background investigation might include a false report. This matter is especially worrisome coming as it does on the heels of published reports of the conviction of one of the agents who did background checks at the White House on charges of falsifying at least 50 interviews that he claimed to have conducted.

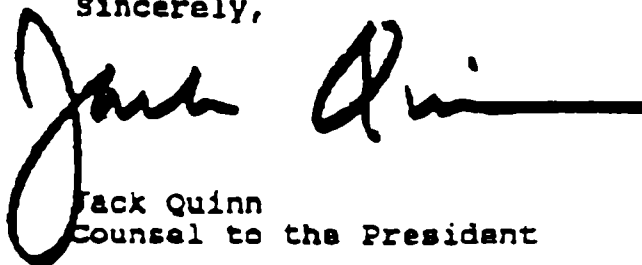
It is equally troubling that a Member of Congress can publicly reveal confidential FBI information, whether for partisan purposes or otherwise. It should not escape notice that this is done at a time when Members of Congress have expressed worry that employees of the executive branch might have sought out confidential FBI information about certain individuals and

planned to somehow use it publicly. While that charge has never been established against anyone in the executive branch, we now witness the same objectionable behavior by the very people who professed to be the guardians of privacy.

It is important that we take steps to ensure continuing confidence in the confidentiality and the integrity of the FBI clearance process. I look forward to your suggestions as to how we can work with you to that end.

Best regards,

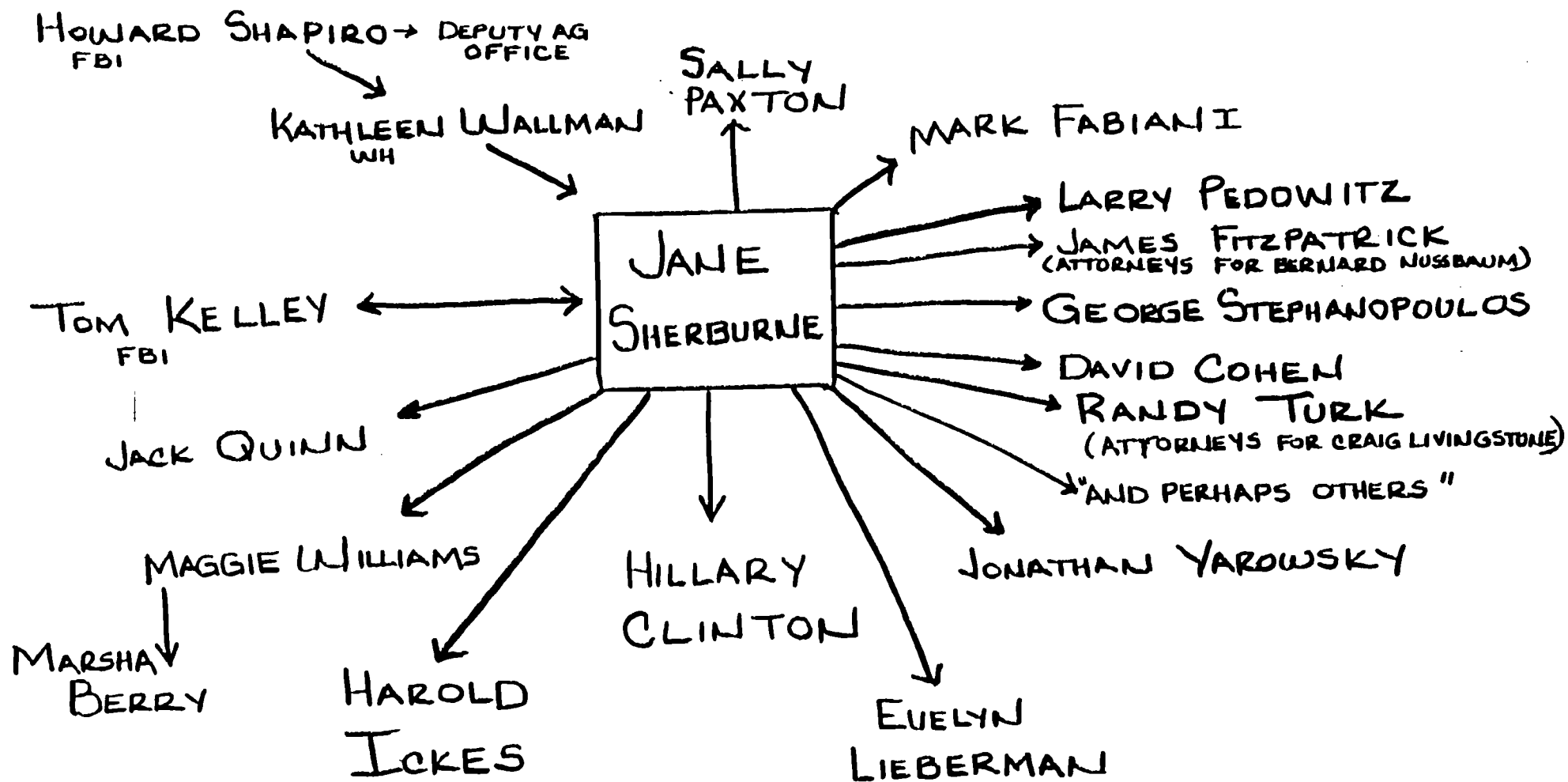
Sincerely,

A handwritten signature in black ink, appearing to read "Jack Quinn". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Jack Quinn
Counsel to the President

Attachment

"HEADS UP" CONTACTS BEFORE
CHAIRMAN CLINGER SAW FBI FILE



* CREATED BY GOVERNMENT REFORM AND OVERSIGHT STAFF

STATEMENT OF JAMES F. FITZPATRICK

It has been suggested that the White House provided us with information that may have had some impact on Mr. Nussbaum's Grand Jury testimony of July 16. There was no connection whatsoever. His testimony of July 16th didn't relate at all to -- and no questions were asked relating to -- the files issue or the hiring of Mr. Livingstone.