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Counsel's Office-Nemetz, Miriam

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Memorandum

To: Miriam Nemetz

From: Adam Levine

RE: Senate Hearing on FBI Files--June 20, 1996

Date: July 12, 1996

1. Mary Kate Carroll-former assistant director of the White House Personnel Office (May 1989 to August 1993):

Carroll, Craig, Dale, Gober, and McBride were among the individuals whose FBI files were requested and received by the White House despite the fact that they no longer had access, nor sought access to the White House complex.

In response to questions, they all testified that:

- They have never seen their FBI files. Id. at 49.
- In late 1993, none of them was being considered for White House employment. Id. at 50.
- None of them had any information to indicate that anything was done with their files aside from being locked in a vault. Id. at 63.

2. Graven Craig-White House intern for the Deputy Assistant and the Special Assistant to the President in 1991.

3. Billy Ray Dale-former Director of the White House Travel Office:

In Dale's opening statement he asserted that he found it difficult to believe that the White House had mistakenly requested and received his FBI file seven months after the Clintons fired him from his position in the White House Travel Office. Id. at 45. He found it especially unbelievable because the files were found in the possession of Mr. Livingstone, the man who had written a memo to the Secret Service after Dale was fired instructing them to remove Dale's name from the White House access list. Id. at 45.

In response to questions, Dale testified that:

- He was under criminal investigation at the time the files were requested and he believes the reason the White House did not use his files against him was because they could not

find anything derogatory in them. Id. at 53.

- His trial was almost two years after the White House had requested his file. Id. at 57.
- It is clear that his file did not go into the vault after Mr. Marceca read it. He thinks that it was forwarded to someone else, conceivably to everyone involved in the Travelgate investigation. Id. at 74.
- At the time the White House requested his file, the validity of the reasons for his firing by the White House was unclear. Id. at 77.

4. Ellen Gober- White House staff assistant in the Office of Legislative Affairs (1991-1992):

In Gober's opening statement she lamented that, like the other witnesses whose files were wrongly in the White House, her personal privacy has been violated. She said that she "feel[s] betrayed by the government that [she] trusted with [her] most personal information." Id. at 44.

5. Anita McBride-former White House Correspondence Office staffer (1984-1986) and White House Director of Personnel (mid-1987 to mid-1992):

In response to questions, McBride testified that the wrongful release of her FBI file has: 1) shaken her faith in the institution and the government under which she served; 2) caused her to fear that information about her, which she does not even know, may appear publicly somewhere; and 3) created a difficult situation whereby she had to explain to family members why her name appeared on a list in the newspaper. Id. at 54.

6. Robert Miller-Assistant Director for Protective Operations, U.S. Secret Service:

In Miller's opening statement he explained that the White House access control system is designed to secure access into the White House. The system uses computer databases to achieve its purpose. He asserted that a review of the system has uncovered no flaws in the passholder database (E-PASS) that could have generated an outdated list. Id. at 100. He further explained that printouts from the database have historically been provided to the White House Security Office for use in connection with White House access and pass issuance. Id.

In response to questions, Miller testified that:

- There are 24,000 names in the E-PASS system. Many of them are inactive because the system keeps the names of inactive

people for eight years. Id. at 109.

- "The E-PASS system would not print an outdated list. . . . [I]t doesn't give flawed data." Id. at 116.
- The E-PASS system is one list. Therefore, if Mr. Marceca had multiple lists, he must have gone to another computer area to generate the list. Id. at 117-8.
- The E-PASS database is capable of printing only a current list; it cannot print past lists. Id. at 162.
- The security office could have obtained a list of people with deactivated passes from the Secret Service prior to making any FBI file requests. Id. at 164.

7. Howard Shapiro-General Counsel, Federal Bureau of Investigation:

In Shapiro's opening statement he explained that the FBI has been providing background investigation reports to the White House for over thirty years. He acknowledged that the FBI has failed to protect adequately the privacy interests of those whose files they maintain. Id. at 93. As a result, the FBI disseminated background information of more than 400 individuals without insisting on proper justification and for no apparent official purpose. Id. at 94. The FBI processed all facially valid White House requests without reflection in order to maximize speed and responsiveness. Id. at 97.

He announced that Director Freeh has implemented a series of procedural reforms which will prevent any such wholesale invasions of privacy from recurring. Id. at 98.

In response to questions, Shapiro testified that:

- The FBI had a long tradition of deference to White House background requests. It was so ingrained that a research analyst, noting that the files of James Baker were requested, did not think to question the propriety of such a request. Id. at 105.
- While Mr. Dreylinger's name is on the White House list of employees whose files were inappropriately requested, the FBI has no record of a request for Mr. Dreylinger's file and never submitted his file to the White House. Id. at 107-8. Apparently the White House prepared a request, but never sent it to the FBI. Id. at 108.
- Information in background reports is not classified as secret, top secret, or confidential, but it is sensitive information that should be handled with care. Id. at 121.

- The Clinton administration has made significantly more requests for FBI files than the Bush administration did. Id. at 124. This may be due to the change of party that occurred when Clinton entered the White House. Id. at 125.
- It is unusual for the White House Security Office to request previous reports without an updated name check request. Id. at 145.
- The Department of Justice and the Clinton transition team entered into a "memorandum of understanding" where it was agreed that the White House would request background information only for official purposes. Shapiro asserted that it was clear that the White House did not comply with the agreement. Id. at 155-6.
- Unnamed people in the FBI said that there was a communication from the White House Security Office to the FBI just prior to the transmission of the requests in question expressing that the requests "needed to be handled without undue delay." Id. at 159.
- The series of requests for previous reports of individuals who no longer had access to the White House stopped before Mr. Marceca's detail ended. Id. at 178-80.

Memorandum

To: Miriam Nemetz

From: Adam Levine

RE: House Hearing on FBI Files--June 26, 1996

Date: July 10, 1996

1. William Kennedy-associate White House counsel:

In response to questions, Kennedy testified that:

- Livingstone and his security office received IRS information on those being considered for White House access. Id. at 65.
- He hired Mr. Marceca as a result of Mr. Livingstone's request for assistance with the volume of work the security office had related to access to the White House and Mr. Livingstone's suggestion that Mr. Marceca was a good man for the job. Id. at 93.
- When he started his tenure at the White House, Mr. Livingstone had already "been identified for [his] position . . . by Vince Foster." After Livingstone's security clearance was received, he (Kennedy) decided to retain him as head of the security office. Id. at 122. While he did not have the authority to fire Mr. Livingstone without checking with Mr. Nussbaum, he "basically assume[d] responsibility for Mr. Livingstone's employment." Id. at 210.
- He never "discussed Mr. Livingstone with Mrs. Clinton in any way, shape or form." Id. at 211.
- Mr. Livingstone went through the normal review process. There were issues in his background that were discussed, but the issues were resolved and ultimately he was hired. Id. at 250.

2. Craig Livingstone-Director of White House Personnel Security:

In Livingstone's opening statement he asserted that his office made an innocent mistake in requesting previous FBI files on individuals who no longer had access to the White House complex. He claimed this mistake occurred because the passholder list, provided to his office by the Secret Service as part of the "update project," was outdated. He said the list contained the names of former staffers who were no longer passholders

interspersed with names of actual, current passholders. Id. at 19-20.

He avowed that no one asked him to obtain FBI background files for any improper purpose. Id. at 20. As a result of his failure to supervise the update project adequately, he tendered his resignation. Id. at 22.

In response to questions, Livingstone testified that:

- Interns may have word-processed some documents for an FBI file request, but a "staff member always initiated that work and asked for that work to be submitted to the FBI." Id. at 55.
- Using Secret Service lists to ascertain who the current passholders were was standard practice. He believes Mr. Marceca was working from this type of list when he ordered the FBI files of staffers who no longer had access to the White House. Id. at 78.
- A staffer, Evelyn Lieberman, discussed with him that another staffer was upset with the way that he had talked to her about some information in her background file. Id. at 87. He was admonished for kidding with that staffer, whose file he had read, about a sorority prank she had performed in the past. Id. at 166, 196-7.
- Once FBI files were sent to the White House, standard procedure required that they be safeguarded. He was never instructed to return requested materials to the FBI, even if he discovered they were unneeded. Id. at 99-100.
- Mr. Kennedy hired him. Id. at 120. He then explained that Miss Christine Varney, the President's Cabinet Secretary, introduced him to people in the Counsel's Office, specifically Cheryl Mills, who talked to him about working in the White House. Id. at 121, 161, 199.
- When he started working in the security office, Ms. Gemmell told him the update project was standard procedure. It was given low priority, but had to be done. Id. at 167-8.
- He has used illegal drugs, but has never had a "drug problem." Id. at 188.
- He resigned on his own volition without discussing his decision with anyone in the White House. Id. at 205.
- The security office staff read the FBI file for two reasons: 1) to check the date of the report; and 2) to check for suitability concerns. Id. at 228.

- He does not recall bringing any files down from Vince Foster's office the morning after Mr. Foster's suicide. Id. at 245.

3. Anthony Marceca- Detailee from the United States Army Criminal Investigation Division to the White House Personnel Security Office from mid-August 1993 to February 1994:

In Marceca's opening statement, he explained that, working from computer lists in the security office vault, he would send request forms for previous reports to the FBI without showing them to anyone in the security office. Id. at 24. Upon receiving the reports from the FBI, if an individual's file had not been updated in the last five years, he would initiate the reinvestigation process by having the individual fill out a new SF-86. If, while seeking an individual to fill out a new SF-86 form, he discovered the individual was no longer employed by or needed access to the White House, he would put their file in the "dead file." Id. at 25.

In response to questions, Marceca testified that:

- He ordered previous FBI investigations for people who had National Security Counsel files prepared and in the vault when he started work in the White House. Id. at 67. He took the computer disc containing information from those files home every day. He never took the actual files home. Id. at 68. He said the fact that names such as Brent Scowcroft and Robert Gates were among the files did not raise a red flag because he was simply looking for names that had to be updated. Id. at 68.
- The list from which he worked and ordered FBI files came from the vault and was generated, he believed, by the Secret Service. Id. at 74.
- He did not do background checks; rather, he reviewed documents looking "for various things that might rise to the level of concern." Id. at 102-3.
- He was unaware that he had information from the files on his computer disc until he was asked to check it by his attorney in response to a grand jury subpoena. Id. at 104.
- As he went through the list, no one stood out as being inappropriately on it. Id. at 116-7. He did not question the names on the list. He said if a name was on the list, he created a file. Id. at 125.
- He sent a memo to Mr. Livingstone saying that a certain White House attorney's response on an SF-86 should be cleaned up so that he would not be fired. Id. at 190.

Livingstone recalls no such memo.

- When he was working on the update project, he believed he had a current list of passholders and had no reason to believe it was outdated. Id. at 213.

4. Bernard Nussbaum-White House counsel under President Clinton:

In Nussbaum's opening statement, he was adamant that there was no enemies list in the Clinton White House and no deliberate misuse of private government information. He said there was, however, a serious mistake made in the White House Personnel Security Office, apparently because an inaccurate White House access list was provided to an employee of the security office. While unaware of the mistake, he takes full responsibility for it. Id. at 13.

In response to questions, Nussbaum testified that:

- Neither he nor Kennedy knew who brought Livingstone into the White House. Id. at 38-39.
- When he came into office, he met with Mr. Gray (Bush's general counsel) and was briefed on some basic procedures. One of those procedures called for FBI request forms to be issued with his name on them despite the fact that he never saw the forms. Id. at 91.
- A detailee was brought in because the White House faced a "special problem:" there had been staff cuts at a time when there were a huge number of security clearances to process. Id. at 94.

5. Lisa Wetzl-intern at the White House Office of Personnel Security starting June 1993; promoted to staff assistant of the security office in August 1994; promoted to executive assistant of the security office in the fall of 1994; left office in September 1995, Id. at 26:

In Wetzl's opening statement, she explained that she started work on the "update project" in late fall of 1994. She noticed many of the previous reports ordered by Mr. Marceca were for individuals who no longer had access to the White House. She concluded that he had mistakenly been working from an out-of-date Secret Service list. Id. at 29.

She said it was "well-known around our office that the Secret Service list included names of people who no longer had active passes." Id. at 30. She would, therefore, call the office in the White House where a person on a Secret Service list supposedly worked before ordering a previous report from the FBI. Id. at 30.

She said she went through the files Mr. Marceca had collected, subsequent to his departure, and, after determining which of Mr. Marceca's files she did not need, put them in boxes and sent them to the Office of Records Management. Id. at 30. She asserted that she had no knowledge of anyone in the Clinton administration using the files for any improper purpose. Id. at 31.

In response to questions, she testified that:

- The monthly lists the Secret Service provided to the security office often contained names of people who were no longer active passholders. Id. at 43.
- A list of past employees was not in the format that the Secret Service database produces because she typed that list when she archived the files. She destroyed the original Secret Service list that Ms. Gemmell had left in the vault. Id. at 73. The list she typed was of all the files that Mr. Marceca had collected that she did not need because the subjects of the files were no longer at the White House. Id. at 83. She said it was a list of names to be taken off the Secret Service list. Id. at 88.
- Ms. Gemmell had requested a list of current passholders from the Secret Service that was left in the vault. Id. at 81.
- Her list of outdated files stopped at the letter "G" because she was going through Mr. Marceca's files and he had only requested files through the letter "G" before his detail ended. Id. at 88, 90.
- When any file was taken out of the security office, it would be signed out in a log. She does not believe the files in question had ever been taken out of the office. Id. at 89.
- She would often send memos to the Secret Service identifying a name that was listed under the wrong office or a name that needed to be deleted. She, however, did not work off the list from which Mr. Marceca worked, containing the 400-plus outdated names. Id. at 143.

Memorandum

To: Miriam Nemetz

From: Adam Levine

RE: House Hearing on FBI files--June 19, 1996

Date: July 8, 1996

1. A.B. Culvahouse-White House counsel under President Reagan:

In Culvahouse's opening statement, he asserted that his obligation to review FBI files was the least attractive feature of his job. He saw the collection of FBI files as important for two reasons: 1) "security reasons" relating to White House pass holders; and 2) to determine the suitability of those the president nominated or appointed to various offices or positions. Id. at 18.

In response to questions, Culvahouse testified that:

- He cannot remember ever needing a file of someone whose background check had been done during a prior administration without that person's express written consent. Id. at 23.
- There are a myriad of statutes and procedures that affect the security clearance process, but no law governing how the White House should run the process, just "custom and procedure." Id. at 58.
- No FBI files were requested without the consent of the subject of the request. New employees consent to an FBI background check when they fill out the "Form 86" and the permanent staff members are on notice that they will have their files recreated and updated by virtue of their continued employment. Id. at 60. Culvahouse noted that everyone who consented to having their files examined consented only to having them examined by members of the administration under which they were serving. Id. at 61.

2. Jane Dannenhauer-White House assistant to the counsel to the president with responsibility of directing the White House Security Office under Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton(for one month):

In response to questions, Dannenhaur testified that:

- She and her staff understood the sensitivity of the files in their office and used extreme caution to protect them. Id.

at 21. As a result, she did not let anyone who did not have a full FBI background investigation (i.e. volunteers or interns) work in the White House Security Office. Id. at 46.

- At the end of an administration, the FBI files in the White House Security Office vault are put under seal and sent to the presidential archives. When a new administration comes into the White House, it has to call for another set of personal FBI files. Id. at 67.
- Under her watch, the security office "would cross check many, many lists before we would ever order anything from the FBI." Id. at 69.

3. **Boyden Gray**- White House counsel under President Bush:

In Gray's opening statement he explained that, during his tenure at the White House, there were three categories of information that he had sought from the FBI: 1) name checks-- checks for illegal activity on public record; 2) full field investigations in connection with new appointees and White House staff; and 3) updates on the semi-permanent White House staff-- this was done on a rotating four-year period and involved a huge amount of paper work containing sensitive information. Id. at 11-12.

In response to questions, Gray testified that:

- Reading files that have not been updated is a useless task "because those people [are] going nowhere without an update." Id. at 32. Gray implied that the retention of files that have not been updated could serve only political purposes. Id. at 32.
- It was mysterious and irregular that no name checks were requested when the FBI file request was made. Gray was confounded by the fact that the files were not returned to the FBI until the House Committee discovered their existence. Id. at 61.
- Upon subpoena by the committee, he would not have claimed executive privilege over the transmittal form between the counsel's office and the FBI.

4. **Dick Hauser**--deputy White House counsel under President Reagan:

In Hauser's opening statement, he explained that he was in charge of background reports. These reports, he asserted, were treated with "great respect." Access to them was limited to the counsel's office for two purposes: 1) assuring the privacy of the

prospective appointee or staff member; and 2) maintaining the integrity of the background investigation process. Id. at 14-15.

5. Nancy Gemmell-assistant to the Office of Personnel Security under Presidents Reagan, Bush, and Clinton (until August 13, 1993):

In response to questions, Gemmell testified that:

- Based on speculation, she believed the reason that FBI security files of individuals from the Bush White House were requested was that the Security Office failed to request that the Secret Service provide a final list and, instead, worked from an initial list that was far from being complete. Id. at 26.
- When she requested copies of security files from the FBI, it was standard practice to do so without review from her superiors. Id. at 27.
- When she left her post on August 13, 1993, the "update project" was in its early stages. She explained that her office had asked the Secret Service to provide a list of current pass holders and that list was left in the vault when she retired. Id. at 56-7.
- Prior administrations that she worked under had never brought a detailee (i.e., Marceca) into the security clearance process, id. at 89, nor had they allowed 18- to 20-year-old interns and volunteers to work in the White House Security Office as was the case during her tenure with the Clinton administration. Id. at 114.

Memorandum

To: Miriam Nemetz

From: Adam Levine

RE: Senate Hearing on FBI Files--June 28, 1996

Date: July 15, 1996

1. Craig Livingstone-former Director of White House Office of Personnel Security:

In his opening statement, Livingstone apologized to each person whose FBI background summary was mistakenly obtained by the Personnel Security Office. Id. at 7. He avowed that he never was asked to obtain, nor sought to obtain FBI background information on any person for an improper purpose. Id. He asserted that the requests for previous FBI summary reports of former administration staffers were an "entirely innocent mistake." Id. at 8. The mistake occurred because the Secret Service list used for the "Update Project" contained the names of former staffers who no longer had access to the White House interspersed with actual, current passholders. Mr. Marceca relied on the list in good faith and inadvertently requested previous reports on a number of individuals who no longer had access to the White House Complex. Id.

In response to questions, Livingstone testified that:

- Cheryl Mills told him that he may have a job in the White House Security Office pending approval by a yet to be appointed associate counsel. That associate counsel was William Kennedy, who, after reviewing his background files, hired him. Id. at 22.
- He learned most of the details about his duties as Director of the Personnel Security Office through on-the-job training. He did, however, meet with career EOP security officer Charles Easley and members of the Secret Service to discuss how to do some facets of his job. Id. at 61.
- Interns were briefed on what they should and should not do, but he could not say with confidence that interns did not ever look at a file. Id. at 63.
- He never copied any information contained in any FBI file. Id. at 69.
- The security office requested previous reports without updated name checks because, if the date of the previous

report was within the last five years, no updated name check was necessary. Id. at 71.

- It was his understanding that when the security office received FBI reports, it was their responsibility "to safeguard them and then to ensure that they were sent to the archives." Id. at 81. He said that "no one ever told me that we were supposed to send back reports that we [should not] have." Id. at 81.
- Past administrations may not have "archived" unneeded files, but their files never left the White House. Under Clinton, the files were archived in the Office of Records Management merely because they had the vault space and assured that the files would be safeguarded. Id. at 88.
- Mr. Dale's file was "charged out" to Livingstone on 6/6/96 at the request of the White House Counsel's Office. Dale's file may have been requested in response to a request from the Independent Counsel or the Government Oversight Committee. It is for this reason that Dale's file was missing from the set of files sent back to the FBI when this FBI files inquiry began. Id. at 94-96.
- He was unaware that Mr. Marceca took home computer disks containing any information concerning FBI files. Id. at 102-03.
- The Counsel's Office was aware that the security office had a security file on Mr. Dale before the May 9, 1996 contempt vote. Id. at 119.

2. Lisa Wetzl-former employee at the White House Office of Personnel Security:

In her opening statement, Wetzl explained that in the fall of 1994, she took over the "Update Project" started by the then-departed Mr. Marceca and Ms. Gemmell. In going through the work they had left in the vault, she found a stack of FBI request forms and a Secret Service list. Id. at 11. She noticed that the list contained hundreds of names from past administrations. Concluding the list was hopelessly out-of-date, she disposed of it in a burn bag. Id. She also sorted through the files that Mr. Marceca had collected and discovered that he had both needed, pertinent files interspersed with unneeded files of past administration staffers. She realized Mr. Marceca had made a mistake that she would have to clean up. Id.

In order to complete the update project, she used an updated Secret Service list. Because it was well-known that the list often included names of people who no longer had active passes, she checked every name before ordering their FBI file. She also

went through Mr. Marceca's files to determine which ones were actually needed. She typed an inventory sheet of the names of the unneeded files, put those files in boxes and sent them to the Office of Records Management. Id. at 13.

In response to questions, Wetzl testified that:

- She believes Mr. Marceca was working from a list generated by the Secret Service because they worked in the same office and she could see that he was working from a list on distinctive green and white Secret Service paper. Id. at 27.
- She was told by Secret Service employees that the E-PASS and WAVES databases were not communicating with each other. Id. at 28.
- She does not recall ever looking at the list from which Mr. Marceca was working. She just assumed the list he was working from was out-of-date. She did notice that a list from which Ms. Gemmell was working was out-of-date. Id. at 37.
- Her archiving of the unneeded files collected by Mr. Marceca bore no connection to the General Accounting Office audit of the Personnel Security Office that was being conducted during the same time period. Id. at 88.

3. Arnold Cole-Supervisor of the White House Access Control Branch of the Secret Service(1992-present):

In his opening statement, Cole asserted that, since December 1992, there has been a consistent, comprehensive effort to educate the new administration on access and security issues at the White House complex. Id. at 156. Prior to the inauguration, there were daily briefings on access issues; after the inauguration there were monthly meetings until November 1993. Id. at 157. It was made clear to the White House staff that the Secret Service was always available to help resolve any problems. After Mr. Livingstone took over the Office of Personnel Security in February 1993, they frequently met informally to discuss all "processes" related to White House access and pass issuance. Id.

In response to questions, Cole testified that:

- When the FBI files issue came under public scrutiny, he met with Mr. Livingstone. Mr. Livingstone told him, "We just wanted you guys to know that we weren't blaming the Secret Service. Using the old list was our fault and we had the current stuff you guys gave us. I don't know what happened." Id. at 164.

- There are "drop dead" dates after which all those who have not turned in their passes and had them reissued are presumed not to have White House clearance. Id. at 191. The purpose of the "drop dead" date is to purge the passholder list of names that are listed as active, but that the White House no longer wants to be active. Id. at 192.

4. Jeffrey Undercoffer-Special Agent with the Secret Service:

In response to questions, Undercoffer testified that:

- He found eight errors on a July 8, 1993 Secret Service list, in which the names of eight former administration staffers were incorrectly designated as "active." The names included James Baker and Marlin Fitzwater. Id. at 168.
- A passholder's name is usually taken off the "active" Secret Service list in one of two ways: either the passholder turns in his/her own pass, or someone from the White House informs the Secret Service that the passholder no longer has access to the White House. Id. at 171. A name can also be taken off the active list by a technical error in the communication between the E-PASS and the WAVES databases. Id.
- The E-PASS and WAVES databases did not communicate correctly for several months. Id. at 177.
- Even after the October 31, 1993 "drop dead" date, the WAVES database still listed James Baker's name as an active passholder despite the fact that he did not have his pass reissued. Id. at 197.
- In early 1995, Mr. Livingstone asked him why James Baker was still on the active passholder list. Id. at 197.

5. James Wolfe-Director of Security at the Senate Select Committee on Intelligence:

In Wolfe's opening statement, he recounted that, in May 1994, at the direction of Senator DeConcini, Chairman of the Senate Intelligence Committee, he conducted a review of the existing White House security procedures. Id. at 159. He met with White House officials to discuss pass issuance and security access to classified information. Id. These officials indicated that there was a severe backlog in the issuance of permanent White House passes for its current employees. Id. at 160.

At the conclusion of his review, he made four recommendations that were sent to the White House: 1) the White House Office of Administration should be assigned a Secret Service agent to be Director of Security, overseeing all

security-related functions; 2) a single office within the White House should coordinate all background investigations; 3) all security clearance background investigation paperwork should be completed and turned in on or before the first day of employment at the White House; and 4) new employees who have undergone an FBI background investigation within the last five years should not have to undergo another full-field background investigation. Id. at 161. The White House said it would give these recommendations serious consideration. Id.

In response to questions, Wolfe said he felt that Mr. Livingstone's credentials were insufficient to hold such an important office in the White House. He believed a non-partisan professional with a strong security background should direct the office. Id. at 182-83.

6. Nancy Gemmell-former staffer with the Office of Personnel Security:

In response to questions, Gemmell recounted that, at the start of the "Update Project", she requested a current passholder roster from the Secret Service. Since she asked for a list consisting of only active passholders, she assumed that the list she received consisted exclusively of active passholders. Id. at 199-200.

7. Mary Beck-Associate Director of Human Resources with the Office of Administration at the Executive Office of the President (January 1993-present):

In Beck's opening statement, she explained that, in late 1993, during the course of her job, she was part of a task force asked to create a single database that could be used to identify people currently working in the EOP complex. Id. at 163. In the process of creating this database, she found hundreds of names inaccurately listed as active passholders on the Secret Service database, including James Baker. Id. She met with the Secret Service about this inaccuracy. They attributed the inaccuracy to a systems breakdown between the E-PASS system, which was current, and the WAVES system, upon which she relied. They told her they were working on fixing the problem. Id. at 163.

8. Charles Easley- Security Officer for the Executive Office of the President:

In response to questions, Easley testified that:

- Phil Larson, Director of Personnel under Bush, told him that five years after he (Larson) informed the Secret Service that he was no longer an active passholder, he came back for an appointment and was told that he was still listed as an active passholder on the Secret Service database. Id. at

187-88. However, Mr. Larson said in a letter, read aloud at the hearing by Senator Hatch, that Mr. Easley misunderstood what he had said and that he is not sure whether or not the database listed him as active. Id. 208-09.

- While looking at a Secret Service list in 1993, he noticed the name Phil Bateman designated as "active." He knew Mr. Bateman was no longer at the White House, so he asked the Secret Service to remove his name from the list. Id. at 188. However, Mr. Bateman's name was changed to "inactive" only on the E-PASS database while the WAVES database continued to list him as "active." Id. Mr. Undercoffer explained that this inconsistency occurred because of a technical glitch, making Mr. Bateman one of eight individuals whose E-PASS record was not transferred to WAVES. Id. at 189.

9. Mr. Libonti-Branch Chief of the Access Control Branch of the Secret Service(1989-1991):

Libonti, who was not on the witness list, testified that:

- While it may seem odd that the Secret Service did not take names like Marlin Fitzwater and James Baker off the "active" list, the fact is that they are not permitted to determine who is taken off that list. Id. at 209-10.
- From the list of 477 former administration staffers whose files were requested, 91 names have definitely never been listed as active since the date in 1989 when they were made inactive. Id. at 213.
- An audit of the computer system confirmed that there is no way the Secret Service databases could have produced a list with a significant number of inactive people listed as active. Id. at 216.

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CLINGER'S JULY 25, 1996 HOUSE FLOOR SPEECH RE FBI FILES

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SECTION: CAPITOL HILL HEARING

LENGTH: 1025 words

HEADLINE: SPEECH GIVEN BY REPRESENTATIVE WILLIAM F. CLINGER (R-PA) SUBJECT: WHITE HOUSE USE OF FBI BACKGROUND FILES OF FORMER REPUBLICAN OFFICIALS
FLOOR OF THE HOUSE OF REPRESENTATIVES

BODY:

REP. CLINGER: (In progress due to late feed) -- and to present my special order at this time?

REP. [UNKNOWN]: Without objection, the gentleman's recognized for five minutes.

REP. CLINGER: Mr. Speaker, I revise -- (and rescind my ?) -- remarks and include the extraneous materials in the record. Mr. Speaker, I arise today to address a very serious issue. For over three years, I have tried to get to the bottom of the White House Travel Office firings and, most recently, the White House's acquisition of hundreds of FBI background files of former Republican officials. Why has the White House resisted making public the information needed to conclude these investigations? One of the foremost questions in my mind, as the committee sought

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to understand how and why the White House obtained these FBI background files, was who is Craig Livingstone, who recommended him, who hired him, and why was he ever put in charge of such a sensitive job at the White House? Simple enough questions; or so I thought.

Even though Mr. Livingstone enjoyed an unusually long tenure in the White House counsel's office, surviving four White House counsels; and even though he enjoyed a 40-percent salary increased by touting his record as a team player while keeping bankers' hours; a month later, we still had no answers to the simple question of who brought Craig Livingstone into the Clinton inner circle as security chief?

Does Craig Livingstone really not know who hired him, or is he just not telling us? Who in the White House recommended that the counsel's office hire Craig Livingstone?

Seeking answers elsewhere for Craig Livingstone's "immaculate hiring," as it has been described, I directed my investigative staff to conduct depositions of the FBI agents assigned to the White House for background investigations. FBI Director Louis Freeh personally suggested that I review Mr.

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Livingstone's FBI background investigation file, rather than question his agents directly on this subject.

Last Thursday, July 18th, I went to FBI headquarters, where I reviewed Mr. Livingstone's FBI file. During the course of an FBI background investigation, it is customary to interview an individual's supervisors. And among those interviewed for Craig Livingstone's background check was then-White House Counsel Bernard Nussbaum.

The interviews took place in early March; in the interview conducted -- of 1993 -- in the interview conducted by FBI Agent Dennis Sculimbrene, his report of this interview stated that: "Mr. Nussbaum advised" -- and I'm quoting -- "that he has known the appointee (of ?) Craig Livingstone for the period of time that he has been employed in the new administration. Mr. Livingstone had come highly recommended to him by Hillary Clinton, who has known his mother for a longer period of time." The agent reported that Mr. Nussbaum said that, quoting, "he was confident that the appointee lives a circumspect life and was not aware of any illegal drug or alcohol problem." This 19 --

MR./REP. [UNKNOWN]: (Off mike.)

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REP. CLINGER: No, I will not yield. This 1993 statement calls into question Mr. Nussbaum's June 26th, 1996 statements made under oath before the Government Reform and Oversight Committee. When Congressman Steve Horn asked former Associate White House Counsel William Kennedy whether Mrs. Kennedy (sic) wanted Mr. Livingstone there at the White House, Mr. Kennedy testified that, and I'm quoting, "I can state that I have never discussed Mr. Livingstone with Mrs. Clinton in any way, shape, or form." Mr. Nussbaum immediately responded, "Nor did I." When I directly asked Mr. Nussbaum "Do you know who hired Craig Livingstone?" Mr. Nussbaum responded "I do not know who brought Mr. Livingstone into the White House."

Just as disturbing is the fact that the FBI provided a heads-up about this information to the White House. I learned this week that prior to my review of Craig Livingstone's FBI background file the FBI called White House Deputy Counsel to the President Kathleen Wallman to provide information contained in Craig Livingstone's file, information that previously had not been provided to the White House. Did the White House tell anyone about this information? What possible legitimate purpose could the FBI have had to call the White House about this information? Why didn't the FBI contact the independent counsel

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if they were really concerned about the information discovered in Livingstone's background file?

The day after the FBI contacted the White House on Wednesday, July 17th, they went to agent Dennis Sculimbrene's home at 10:00 in the morning and interviewed him about the taking of the Nussbaum statement. The FBI agents conducting the interview told Mr. Sculimbrene that the White House was unhappy and concerned about this particular interview and about what had been said to -- about Bernie Nussbaum. Why after the attorney general herself said that it would be a conflict of interest for the FBI or the Justice Department to investigate anything related to this matter would FBI agents go to the home of such a critical witness?

Who directed these agents? Who approved and knew about these actions, and when did they know? Was the independent counsel informed? And why was Agent Sculimbrene told that the White House was unhappy? This is a matter that I will refer to the United States attorney for the District of Columbia. Because Attorney General Reno has designated Independent Counsel Kenneth Starr to investigate potential criminal wrongdoing in the White

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House Travel Office and FBI files matters, I am simultaneously forwarding this matter to Judge Starr's attention.

While our investigation is continuing, our focus is not, not on possible criminal activities, and I want to emphasize that I am not here to prejudge the veracity of any of the statements that I've referred to, but I am concerned about what appear to be very serious discrepancies. I believe, therefore, this issue must be addressed by a federal law enforcement office tasked to review these types of issues.

And I yield back the balance of my time.