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THE WHITE HOUSE
WASHINGTON

August 30, 1996

MEMORANDUM FOR ALL EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: JANE SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SALLY PAXTON^{SP}
SPECIAL ASSOCIATE COUNSEL TO THE PRESIDENT

RE: Document Subpoena from the House Committee on
Government Reform and Oversight

The House Committee on Government Reform and Oversight has subpoenaed certain White House records. Please review your White House records, including your computer files, and retrieve the following:

- 1) All records from December 1, 1995 to the present relating to any information provided to any individual at the White House regarding actual or potential books being considered for publication as well as any notes, talking points, or communications regarding such publications.

The Committee has been unwilling to work with us to formulate a more specific, manageable request. If you have questions about whether you have responsive materials, please discuss them with Sally Paxton at 65079. If you have sent files likely to contain responsive information to the Office of Records Management, please let us know and we will arrange to have your files reviewed.

Please provide responsive information to Sally Paxton in Room 148 as soon as possible, but no later than close of business on Wednesday, September 4, 1996. Thank you for your assistance.

WILLIAM F. CLINGER, JR., PENNSYLVANIA
CHAIRMAN

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DAN BURTON, INDIANA
J. DENNIS HASTERT, ILLINOIS
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ROBERT L. EHRlich, JR., MARYLAND

ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

September 10, 1996

CARDISS COLLINS, ILLINOIS
RANKING MINORITY MEMBER
HENRY A. WAXMAN, CALIFORNIA
TOM LANTOS, CALIFORNIA
ROBERT E. WISE, JR., WEST VIRGINIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
JOHN M. SPRATT, JR., SOUTH CAROLINA
LOUISE MCINTOSH SLAUGHTER, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
GARY A. CONDIT, CALIFORNIA
COLLIN C. PETERSON, MINNESOTA
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BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY—(202) 225-6074
MINORITY—(202) 225-6061

Jane C. Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20005

Dear Jane:

In your letter to me, dated September 10, 1996, you stated that "those" who participated in a review of the Gary Aldrich book did not maintain notes. Please identify the individuals who participated in the review of the Aldrich book and whether there were notes at one time. If such notes or memoranda existed at one time, explain what happened to them.

Thank you for your cooperation in this matter.

Sincerely,

Barbara Olson
Chief Investigative Counsel

Corps, a program that was created in 1970 with the leadership of Congressman Lloyd Meeds and a former Senator from the State of Washington who served in the other body, Senator Henry M. Jackson. This is a program that employs several thousand people each summer working on our national parks, our wildlife refuges in order to do work and maintenance in those areas. It is modeled on the very successful Civilian Conservation Corps of the Roosevelt administration, and I had a chance to see these young workers today doing work on the C&O Canal and to hear their stories about their involvement, and again I think it emphasizes how important it is for us in this Congress to support programs like the YCC, and I believe that the taxpayers get a good return and young people get an opportunity to serve the country and work on important environmental projects.

MARMENT LOCKS IMPORTANT TO INLAND WATERWAY SYSTEM

(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, the Marment Locks are an extremely important project not only for West Virginia but actually for the inland waterway system. There is a lot of uncertainty because the appraisal and real estate acquisition process must go forward. Two hundred families have been waiting a long time for this to happen. In the energy and water appropriation bill today that passed this House there was no language about that, and that is because that there is a two step, there are two ways that we can get such a project as this moving forward, and I just want to assure people that the process is not stopped.

The energy and water appropriation bill had a rule that there would be no new starts involved in it, neither the House, nor Senate, at this time. However, the other step the other way is the authorization process, and the water resources bill contains full authorization for the Marment Locks, it has passed the Transportation and Infrastructure Committee.

I am urging the congressional leadership, and I think on a bipartisan basis, to bring this to the floor as soon as possible and to end this uncertainty. It is definitely possible for the water resources bill to be enacted this year to give approval for the Marment Locks to move forward and end this delay and uncertainty for so many families in West Virginia.

ORDER OF BUSINESS

Mr. CLINGER. Mr. Speaker, I ask unanimous consent to present my special order at this time.

The SPEAKER pro tempore. Is there objection to the request the gentleman from Pennsylvania?

There was no objection.

WHITE HOUSE ACQUISITION OF FBI FILES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, I rise today to address a very serious issue. For over 3 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 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 increase by touting his record as a "team player" while keeping bankers' hours—now a month later, we still have 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 was described by one observer, 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. Livingstone's FBI background investigation file rather than question his agents directly on this subject.

Last Thursday, July 18, I went to the FBI headquarters where I reviewed Mr. Livingstone's FBI background file. During the course of an FBI background investigation, it is customary to interview an individual's supervisors. Among those interviewed for Craig Livingstone's background check was then-White House Counsel Bernard W. Nussbaum. The interviews took place in early March.

In the interview conducted of 1993, an interview conducted by Agent Dennis Sculimbrenne, his report of this interview stated that Mr. Nussbaum advised, and I am quoting, "that he is not only an 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 drug or alcohol problems."

This 1993 statement calls into question Mr. Nussbaum's June 26, 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. Clinton wanted Mr. Livingstone there at the White House, Mr. Kennedy testified that, and I am 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 don't 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 did the FBI not contact the independent counsel if they really were concerned about the information discovered in Livingstone's background file?

The day after the FBI contacted the White House, on Wednesday, July 17, two headquarters agents went to Agent Dennis Sculimbrenne'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. Sculimbrenne that the White House was unhappy and concerned about this particular interview and about what had been said 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 Sculimbrenne told that the White House was unhappy?

□ 1715

This is a matter I will refer to the U.S. attorney for the District of Columbia. Because Attorney General Reno has designated Independent Counsel Kenneth Starr to investigate potential criminal wrongdoing in the White

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. I want to emphasize that I am not here to prejudge the veracity of any of the statements that I have 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.

Mr. Speaker, I include for the RECORD the following information:

WHITE HOUSE AND FBI ACTIONS AND CONTACTS ON FBI FILE MATTER—PREPARED BY STAFF OF HOUSE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

JUNE 14, 1996

FBI issues report on White House obtaining FBI files saying the FBI was "victimized" by the White House's gathering of FBI background files.

Craig Livingstone is deposed by the Committee on Government Reform and Oversight and reveals problems in his background.

JUNE 17, 1996

Craig Livingstone is deposed by the Committee on Government Reform and Oversight.

White House Counsel Jack Quinn announces that Livingstone has asked to be put on administrative leave.

JUNE 18, 1996

After an initial inquiry, Independent Counsel Starr advised Attorney General Reno that he does not believe he has jurisdiction to investigate the FBI file matter further.

Attorney General Reno ordered the FBI to conduct a thorough investigation into unjustified White House requests for background files.

JUNE 20, 1996

Attorney General Reno turned the investigation of White House requests for FBI background files over to Whitewater Independent Counsel Starr in order to avoid a conflict of interest. Reno wrote: "I have concluded it would constitute a conflict of interest for the Department of Justice itself to investigate the matter involving an interaction between the White House and the FBI, a component of the Department of Justice."

JUNE 26, 1996

Craig Livingstone announces his resignation in his opening statement before a Committee on Government Reform and Oversight hearing on the Security of the FBI Files.

JUNE-JULY 1996

Independent Counsel investigation proceeds with numerous White House witnesses appearing before the Grand Jury.

JULY 15, 1996

Dennis Sculimbrene is deposed by the Committee on Government Reform and Oversight.

JULY 16, 1996

Chief Investigative Counsel Barbara Olson of the Committee reviews the FBI background file of Craig Livingstone and Anthony Marceca.

According to FBI Counsel Shapiro, he contacted Deputy White House Counsel Kathleen Wallman regarding the Nussbaum interview in Livingstone's FBI background file.

JULY 17, 1996

Two FBI agents from FBI Headquarters appear at the Haymarket, Virginia home of Dennis Sculimbrene to talk with him about

his interview of Bernard Nussbaum and show him the document. They also ask him for his notes of the interview.

Committee holds hearing with Secret Service witnesses on the Security of FBI Background Files. Secret Service Agent Arnold Cole reveals that he spoke with Bill Kennedy about problems in the background of Craig Livingstone when the Secret Service reviewed his file for security concerns.

JULY 18, 1996

Chairman Clinger and Chief Investigative Counsel Barbara Olson review Craig Livingstone's FBI background file at the FBI. Chairman Clinger requests information regarding any communication of information in the Craig Livingstone FBI Background file to the White House.

JULY 19, 1996

FBI General Counsel Shapiro writes letter to Chairman Clinger informing him that the FBI did indeed provide the White House with information on the Nussbaum interview: "because issues raised in Mr. Nussbaum's interview [in Livingstone's FBI background file] has been discussed in connection with the Committee's oversight investigation, it was determined that the Bureau had a responsibility to advise affected parties. Therefore, after arrangements were made for your staff to review the files, the Department of Justice, and then the White House, were advised of the results of this review."

A PARTISAN SMEAR

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentleman from California [Mr. WAXMAN] is recognized for 5 minutes.

Mr. WAXMAN. Mr. Speaker, I want to point out how outrageous it is that the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee, that has been investigating whether there has been an invasion of privacy by the gathering of FBI files would come to the floor and disclose information that he has from FBI files. It seems to me that, if we are talking about protecting people's privacy, it is out of line to come to the floor and use information that has not been verified, presumably from some FBI file, to try to smear the First Lady, Bernard Nussbaum, the counsel, and the Democratic administration. This is a partisan smear.

I have information that I am going to insert in the RECORD that contradicts the statement made by the gentleman from Pennsylvania [Mr. CLINGER]. I want to point out that, when a Member of Congress speaks from the House floor, he is protected. We can say anything we want. No one can file a lawsuit against us. But that does not give us the right to come here and disclose information that ought not to be disclosed.

If there is an accusation about people in the White House having gathered FBI files improperly, that accusation appears to be accurate, but there has been no showing that any of that information was ever made public or used for political purposes. But what we have here right now is the use politically of information from the FBI.

I include for the RECORD these statements that contradict what has been

alleged on the House floor and to point out to the Members that this kind of activity, it seems to me, is outrageous and is really uncalled for.

The material referred to is as follows:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, July 19, 1996.

HON. WILLIAM F. CLINGER,

Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I have been advised that you and Committee Counsel Barbara Olson visited the FBI yesterday for the purpose of reviewing the background investigation files of Craig Livingstone and Anthony Marceca. As you know, the FBI's investigations of Mr. Livingstone and Mr. Marceca were undertaken at the request of the White House and the results of the investigations were previously provided to the White House.

After your review of these files, I understand that you noted that neither of the summary memoranda reflecting the results of the FBI's investigation of Mr. Livingstone reflected certain specific information recorded as a result of the FBI's interview of Bernard Nussbaum, then counsel to the President. You asked what the FBI's response would be if the White House requested any additional information from the file beyond the summary memoranda furnished.

As you know, the FBI conducts background investigations for various congressional committees and other government entities, including the White House. With regard to requests for background investigations from the Department of Justice, the Department of Energy, the Nuclear Regulatory Commission, and the Administrative Office of the U.S. Courts, the FBI provides the actual investigative reports. Only certain information is withheld, e.g., if an interviewee requests that his identity be protected from disclosure outside the FBI. With regard to background investigations conducted for congressional committees and the White House, by agreement the FBI provides summary memoranda that synopsize the information in the underlying investigative reports. Since 1983, at the request of the White House, the FBI also attaches to the summary memoranda any FD-302s that reflect derogatory information. So, for example, the FBI's communication that provided the White House with the results of the remainder of the Bureau's investigation of Mr. Livingstone included an FD-302 reflecting the results of an interview with an individual who volunteered derogatory information. The summary memoranda are intended to address all the concerns of the client entity requesting the background investigation but if that client asks for additional information from the report, the FBI would provide the requested information subject to certain limitations, e.g., the interviews specifically requests confidentiality.

You also expressed concern as to whether the information in Mr. Livingstone's files, particularly with regard to the record of the interview with Mr. Nussbaum, should be provided to the White House by the FBI. You indicated that you would want to know if the White House asked for or was provided that information and what the justification for providing it would be.

During the course of this or any other oversight investigation, the FBI works to cooperate fully with congressional committees as well as any other agencies or entities impacted by the inquiry. Our effort is to remain non-partisan ensuring that facts within our possession which are relevant to an inquiry are provided to affected entities to the extent that we are aware of such an interest.

When the FBI first learned from your staff that your Committee was interested in looking at the background investigative files of Mr. Livingstone and Mr. Marceca, the files were reviewed to remove identifying information relating to third parties as well as third agency information. During this review, the information concerning the results of the interview with Mr. Nussbaum were identified. Because issues raised in Mr. Nussbaum's interview had been discussed in connection with the Committee's oversight investigation, it was determined that the Bureau had a responsibility to advise affected parties. Therefore, after arrangements were made for your staff to review the files, the Department of Justice, and then the White House, were advised of the results of this review. As you will recall, we followed this procedure of full disclosure when we first located the White House request for Barnaby Rasseur's previous reports, which the Director advised you of personally on June 5, 1996. In that instance, as in others, you were advised of the information well in advance of any notices being given to the White House.

The minority staff of the Committee on Government Reform and Oversight have not asked for further details about the information in question. However, if they do so, the FBI will similarly advise them.

I hope this information is helpful to you. As the Director has advised you, the FBI wants to continue to cooperate fully with you in this matter. Please advise me if I can be of any other assistance.

Sincerely yours,

HOWARD M. SHAPIRO,
General Counsel.

FIRST LADY HILLARY CLINTON Q AND A'S IN
BUCHAREST, ROMANIA, MONDAY, JULY 1, 1996

Q from AP: Before we get too far along with our wonderful Romanian visit, I want to clear up just one thing hanging over Washington. Did you or to your knowledge, did Vince Foster have anything to do with the hiring of Craig Livingstone?

A from HRC: I don't know anything about it. I know I didn't.

Q from AP: Do you have any reason to believe that Vince Foster did?

A from HRC: I have no reason believe that.

Q from AP: Is there any connection between your mother and Craig Livingstone's mother. Which is something the FBI agent is claiming.

A from HRC: The "ex FBI Agent"? No there is no connection. I do believe, if I ever meet the woman I'm going to say "Mrs. Livingstone I presume."

FIRST LADY DISCUSSION WITH TRAVELING
PRESS, HELSINKI, FINLAND, JULY 10, 1996

Q from ABC: I need to follow-up on one of Ron's questions. When did you first meet Craig Livingstone? When did you become aware that you knew him?

A from HRC: I don't have any idea. I don't recall meeting him for the first couple of years we were in the White House. I just don't know him. I have met him since then, but my best memory is sometime within the last year is the first time I ever put a face and a name together.

Q from AP: I really don't want to belabor this, but did I understand you on the Livingstone question, that you don't really have a memory of knowing him until this all happened?

A from HRC: Ron, I did not know his mother. I did not know him. I did not have anything to do with his being hired. And, I do not remember even meeting him until sometime in the last year. So, it does not mean I did not run into him. It does not mean that I did not shake his hand in a receiving line.

All that could have happened. But, in terms of any connection with this young man or any kind of relationship with him, there was none.

DEPOSITION OF WILLIAM H. KENNEDY, III,
COMMITTEE ON GOVERNMENT REFORM AND
OVERSIGHT, JUNE 18, 1996

Q. Do you know if the First Lady was involved at all with the hiring of Craig Livingstone in your office?

A. I don't believe she was. I do not know one way or the other. I don't believe so.

Q. Do you recall ever saying to anyone that the First Lady wanted to have Craig Livingstone in the position at the Security Office at the White House?

A. Me ever saying that?

Q. Yes.

A. I never said that.

STATEMENT OF WILLIAM H. KENNEDY, JUNE 29,
1996

Gary Aldrich's account of a conversation with me about Craig Livingstone's suitability for the job of Director of Personnel Security is pure fiction. I never told Aldrich that Mrs. Clinton wanted Mr. Livingstone in that post. I have never had any discussion with Mrs. Clinton about Craig Livingstone. No one else ever told me that Mrs. Clinton had any interest whatsoever in Mr. Livingstone or his position.

SWORN TESTIMONY OF CRAIG LIVINGSTONE,
SENATE JUDICIARY COMMITTEE, JUNE 28, 1996

Leahy: OK. I've also read in the press allegations that come from unspecified sources that your mother is a close friend of the first lady. Is she?

Livingstone: No, sir.

Leahy: And you have no idea who those sources are that tell these things?

Livingstone: No, sir. I've asked my mother and she, for the record, says that she has never met Mrs. Clinton.

SWORN TESTIMONY OF CRAIG LIVINGSTONE,
HOUSE COMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHT, JUNE 28, 1996

Horn: Well, what I'm curious now is, Mr. Marceca and Mr. Livingstone, did Vice President Gore or Mrs. Clinton recommend you for the position you held, Mr. Livingstone, to your knowledge?

Livingstone: I have no knowledge of that.

Mica: Does anyone in your family have any relationship with the first family?

Livingstone: Absolutely not.

A PROPER AND APPROPRIATE DISCUSSION

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, what we have just heard is a chairman of a committee of jurisdiction tell this House that members of the administration or formerly members of the administration came before this Congress and told a lie. I think that is the business of this Congress. I think it is entirely appropriate to discuss on the House floor the fact that someone came before an investigative committee and lie to that committee. I think it is entirely appropriate for the chairman of that committee to take those actions that are available to him in order to ensure that those matters are brought before proper authorities.

What has happened here this evening is that we have had a chairman exercise his obligation to the American people and his obligation under the Constitution to, first of all, do oversight and then, if that oversight process is not properly adhered to, to ensure that the proper law enforcement officials focus on it. That is exactly what was done here tonight. It is absolutely proper.

EMBARRASSING ACTIVITIES OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I am very disappointed in the fact that my chairman came here and took the floor. I have had a great deal of respect and regard for the gentleman from Pennsylvania [Mr. CLINGER], and as the days and weeks move on toward the end of this session, watching the activities of the Committee on Government Reform and Oversight of the House of Representatives, I am getting more embarrassed every moment.

I say, and I am looking right at the gentleman from Pennsylvania [Mr. CLINGER], I was aware of what you were going to say today.

Mr. SOLOMON. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore (Mr. HOBSON). The gentleman will be seated. The gentleman asks that the words be taken down.

The Clerk will report the words.

□ 1720

The SPEAKER pro tempore (Mr. HOBSON). Does the gentleman from Pennsylvania seek recognition?

Mr. KANJORSKI. Yes, Mr. Speaker.

Mr. Speaker, I understand that the taking down of my words was with the intention that it was a personal attack, referring to the gentleman from Pennsylvania [Mr. CLINGER]... Certainly I am not attacking nor do I intend to attack him personally in that regard. The expressions were perhaps not precise in the use of the language and I would like to correct and get understood on the record what my intentions were.

That is, as an old lawyer myself and as a reader of the Constitution, I wanted to call the attention of the House and those people watching this proceeding that if the remarks made by my colleague from Pennsylvania were made outside of the House Chamber, he could be subject to tortious action.

Mr. WALKER. Mr. Speaker, I demand the gentleman's words be taken down again.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania have a unanimous-consent request?

Mr. KANJORSKI. Mr. Speaker, I am making a request to withdraw my original words.

The SPEAKER pro tempore. The gentleman will state his unanimous-consent request.

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent to withdraw my words.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WELDON of Pennsylvania. Mr. Speaker, reserving the right to object, is the gentleman apologizing for his statement?

Mr. KANJORSKI. No.

Mr. WELDON of Pennsylvania. Then I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will report the words.

The Clerk read as follows:

I was aware of what you were going to say today. You know full well the reason you came down here on the floor and said what you said is that you didn't have the nerve to go up in the Press Gallery and make those charges because you would be subject to a lawsuit.

The SPEAKER pro tempore. The Chair will rule. In the opinion of the Chair, the remarks question the integrity of the gentleman from Pennsylvania [Mr. CLINGER] and constitute a personality in debate.

Without objection, the words are stricken from the RECORD.

There was no objection.

The SPEAKER pro tempore. Without objection, the gentleman from Pennsylvania may proceed in order.

Mr. WALKER. I object.

The SPEAKER pro tempore. Objection is heard.

Mr. HORN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman from California is recognized for 1 minute.

Mr. RANGEL. Mr. Speaker, reserving the right to object, I would like to ask the Chair whether this intervention at all will cause the matter that was before the Chair to be discontinued. In other words, we are not finished with this matter.

The SPEAKER pro tempore. Other Members may speak with permission of the House.

Mr. RANGEL. And so this matter can be returned to, notwithstanding the unanimous-consent request?

The SPEAKER pro tempore. By other Members of the House.

Mr. RANGEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HORN. Mr. Speaker, I think it is clear to all of us that the committees of this House are agents of the House, and ultimately it is the House that determines whether such committees exist or not, and I think, as most of my colleagues know, when a witness comes before the Committee on Government Reform and Oversight and any of its

subcommittees, one of which I Chair, each witness, unless it is a Member of Congress, takes the oath to tell the truth, nothing but the truth, the whole truth, and so forth. These witnesses were all under oath.

The chairman of the committee, when he recalled that the question was asked specifically of each of these witnesses as to whether or not either the First Lady or the Vice President of the United States had recommended Mr. Livingstone, every single one of the witnesses before us denied it.

Mr. Speaker, that is a matter of perjury that ought to be of concern to the House of Representatives. They did not say what one other series of witnesses said to a Senate committee, that, "Gee, I can't recollect; I just don't remember." They did not say that. They said no, none of that was true. We now find it was true.

Mr. FILNER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman from California may proceed.

There was no objection.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, let me clarify for everybody what is involved here. There is a retired FBI agent who has said that he talked to Bernie Nussbaum, the counsel to the President, when he was doing the file for Mr. Livingstone, and he claimed Mr. Nussbaum said that Livingstone was being hired because his mother was a friend of Hillary Clinton's. Bernie Nussbaum denies that. Hillary Clinton denies that.

Mr. Speaker, there is no verification by the gentleman from Pennsylvania [Mr. CLINGER] of the facts of it. Instead, he has come to the floor and made the assertion that when Mr. Nussbaum denied this and Mr. Kennedy denied this and said that they knew of no connection with Hillary Clinton that they committed perjury.

Mr. Speaker, how can you reach the conclusion that when they deny what they know and what they said makes them wrong and somebody else right, unless you are going to take the statement by this FBI agent as fact without any verification?

Mr. Speaker, I am inserting in the RECORD a clear statement from Mr. Nussbaum indicating he never said such a thing and it was not true.

STATEMENT OF BERNARD NUSSBAUM

I never told FBI Agent Soulimbrene, or anyone else, that the First Lady recommended Craig Livingstone for his position in the White House or that the First Lady knew Livingstone's mother. I never knew or heard any such things. In fact, I understand that the First Lady and Livingstone's mother don't know each other. I am mystified and outraged that someone would attribute to me something I never said.

Mr. DELAY. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman from Texas is recognized for 1 minute.

There was no objection.

Mr. DELAY. Mr. Speaker, before I yield to the distinguished chairman of the Committee on Government Reform and Oversight, I just want to say that there have been a lot of misstatements in the press, outside this Hall and inside this Hall, by the administration concerning the FBI files.

Mr. Speaker, I stand behind this chairman, and no one in this town or in this Nation would ever question the integrity and the straightforwardness of the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, I just want to make sure the record is straight, that I have not accused anybody of perjury or of false statement. I have said that there are serious discrepancies between testimony that was given before our committee and statements that were made to an FBI agent in pursuing the Craig Livingstone background file.

I did indicate, however, that these discrepancies should be explored. It is not the role of the Committee on Government Reform and Oversight to determine which is right or which is wrong. I think it is the appropriate role of the independent counsel or of the U.S. attorney for the District of Columbia to determine where the truth lies. I hope the gentleman will agree he made a misstatement that I was accusing somebody of perjury.

(Mr. WAXMAN asked and was given permission to address the House for 1 minute.)

Mr. WAXMAN. Mr. Speaker, I do not in any way want to impugn the integrity of the gentleman from Pennsylvania for whom I have the greatest respect. He has indicated that there is a discrepancy. The discrepancy is that in the FBI files there was an FBI agent who claimed that he was told by Mr. Nussbaum that the reason Craig Livingstone got this job is because his mother was a friend of Hillary Clinton's.

I am putting in the RECORD a statement from Gloria Livingstone saying she does not know Hillary Clinton. The only time she ever met her was when she decorated a Christmas tree and Hillary Clinton came out and thanked everybody for their help.

Mr. Speaker, I have previously included in the RECORD an unequivocal denial by Mr. Nussbaum, who is willing to come before the committee and make this denial under oath.

Mr. Speaker, I think we ought to make clear that when the chairman comes and makes a statement like this, which is quite inflammatory, that it is not an uncontroverted statement by a man who does not know firsthand whether Mr. Nussbaum actually said

July 25, 1996

such a thing or Mrs. Clinton was a friend of Mr. Livingstone's mother.

JULY 25, 1996.

STATEMENT OF GLORIA LIVINGSTONE

I do not know Hillary Rodham Clinton, I have never met Mrs. Clinton, and I have never spoken with Mrs. Clinton. We are not, and never have been, personal friends.

I believe the only occasion I was in the same room as Mrs. Clinton was shortly before Christmas last year, when I had the privilege of helping to decorate the White House Christmas tree. At one point, Mrs. Clinton entered the room and thanked us as a group for our efforts.

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute.)

Mr. GEJDENSON. Mr. Speaker, I find a very frightening trend in this Chamber that there is an attempt to squelch free speech. It actually started in the very first days of the Congress, shutting down some of the institutions that represented various concerns in the country.

Now, we see on the floor when individuals try to express or respond to what was a very inflammatory statement apparently on the Republican side, that when the minority tries to respond parliamentary maneuvers are used to prevent them from speaking.

Frankly, through the years we gave far greater opportunity to the minority to express its statements than we have seen here. The attempt to operate this House ad hoc out of the Committee on Rules, to try to squelch honest debate and criticism, the first instance of course was the Speaker himself when the Speaker used to come to the well and absolutely devastate everyone else as soon as his name was mentioned. They stopped it. It is an outrage.

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to speak out of order for 2 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Speaker, again let me extend my apologies for my abruptness to the gentleman from Wisconsin who was up at the same time seeking recognition.

Mr. Speaker, I would like to suggest to all of us here that although there is an intense interest in the issue we have been discussing, and there are certainly going to be many opportunities for this discussion to continue, both on and off the floor of this Chamber, that we do have the New York delegation who are here, and have been patiently waiting for the opportunity to express themselves in a special order about a fallen comrade. I do think that perhaps it might be in the best interest of the decorum of this body if perhaps we could move this debate to another time, another venue, or perhaps further work in the committee or on the floor at another time, and at this point cede the floor to those folks that are so concerned, so interested in doing their job.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I wonder if we might, so that the New York delegation could get to its intended business, if we could dispose of this matter the same way that we disposed of an incident several weeks ago involving the gentleman from Arizona and the gentleman from Wisconsin now speaking, when the gentleman from Illinois [Mr. HYDE] suggested that it might be resolved by simply an expression of regret to the House by the Member in question that the incident occurred so that we can expunge the RECORD and return to the normal business of the House.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Wisconsin.

Mr. Speaker, again I think in the interest of decorum and the interest of consideration, one for another among our colleagues, I would like to personally ask unanimous consent that the gentleman from Pennsylvania [Mr. KANJORSKI] be given time for a short statement, after which I would expect we should be able to move on, return to normalcy for all parties concerned and allow the New York delegation to move on with their work.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania is recognized for 1 minute.

Mr. KANJORSKI. I appreciate the majority leader's courtesy.

Mr. Speaker, I wish to take this opportunity to apologize to my friend from Pennsylvania, if I have in any way caused you discomfort to attacking your integrity. I never intended to do that. I merely wanted to express that there was another forum that could have been used for this, and there would be other jeopardies involved if it had been used.

Having served in the House for 12 years now and having been here some 42 years ago with a good friend of mine, Bill Emerson, who we just saw die last week, it has always been my intention that we have comity in the House and civility, and I have to say that I see myself having gotten into this engagement with great disappointment because it does destroy the civility and the comity of the House, and I want my friends on the other side to know that I hope not to be a part of that, and any remarks that are taken that way, not only the gentleman from Pennsylvania [Mr. CLINGER] but all my friends on the Republican side, I would hope that you would do me the kind courtesy of taking it as I truly intended it, not to attack the integrity of the gentleman from Pennsylvania [Mr. CLINGER].

Mr. ARMEY. Mr. Speaker, with that apology, which I found to be quite gracious, I move that Mr. KANJORSKI be permitted to proceed in order and I would give my best regards to the New

York delegation as I am confident we will soon be moving to them.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

□ 1740

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HOBSON). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE NEED TO INCREASE AIRPORT SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, in deference to the New York delegation and to the untimely death of our beloved Ham Fish, I will not take the entire 5 minutes.

Mr. Speaker, I would just like to say real quickly that there was a tragedy that occurred last week in New York going out of Kennedy airport. The TWA airplane that took off from Kennedy heading for Paris was blown up shortly after takeoff, and it is highly suspicious as to what was the cause. Some people right now believe it may have been the act of a terrorist. It is premature to say that but it certainly looks that way.

Toward that end, I have introduced legislation which I introduced after the Pan Am bombing over Lockerbie, Scotland a few years ago, which mandated that at every major airport in the United States, the 50 largest airports, that there would be sniffer dogs at the gates and where the luggage goes through to try to find out if plastic explosive or other explosive devices are going through. With the millions and millions of people that are traveling through the airports and through the air in the United States of America, it is imperative that they be as safe as is humanly possible.

The mechanical devices that have been tested have been found flawed. Sniffer dogs and other animals that can sniff out plastic explosives can save a lot of lives. We here in the Capitol today were using sniffer dogs because we had foreign dignitaries visiting, and we wanted to make sure they were protected and there were no explosive devices put in this Capitol.

They do work. They are effective. There are some down sides to them. It is expensive. You have to have a lot of dogs. But in this climate of terrorism in this world and in the United States of America, I think it is imperative that this legislation be passed as quickly as possible. I urge my colleagues to look at this bill seriously and cosponsor it if they feel so inclined.

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STATEMENT OF WILLIAM F. CLINGER, JR.

JULY 17, 1996

WHITE HOUSE ACCESS TO FBI FILES SECRET SERVICE HEARING

Over the past month, the White House has provided several conflicting explanations about how it obtained hundreds of FBI background files in the Fall of 1993 and Winter of 1994. The FBI Director has acknowledged that these were "egregious violations of privacy." The White House initially released statements from Craig Livingstone's attorney claiming that the activities of Livingstone and Marceca were all an "innocent mistake." Why did the White House so quickly endorse the explanations of Livingstone and Marceca before getting all the facts?

It is troubling that the White House is now trying to shift the blame from their own incompetent appointees -- whose claims to fame include "deploying" Chicken George at campaign events and taking the Fifth -- to the Secret Service whose mission is to protect the President and his family. Why would the White House scapegoat the Secret Service for its own shortcomings?

Whatever the reason for the White House's assorted and conflicting explanations of the past month, its clear that the Secret Service wasn't at fault as evidenced by Craig Livingstone's own statement to Special Agent Arnold Cole on June 7, when he said: "We just wanted you guys to know that we weren't blaming the Secret Service. Using an old list was our fault, and we had the current stuff you guys gave us. I don't know what happened." That is sworn testimony from a decorated Secret Service agent.

The Secret Service has spent an extraordinary amount of time and resources carefully reviewing the quality of the information they provided to the White House. Countless hours have been dedicated to examining if any material they provided to the White House could have been responsible for the hundreds of improperly requested FBI background files. As I understand it the Secret Service could not identify any systemic problems which would explain how this happened.

Over the past month, the Secret Service has had to defend itself against a media

campaign from "off the record" White House sources and surrogates suggesting that it is the Secret Service, not the incompetent White House staff who is to blame for the alleged "snafu." This was the same blame everybody but us staff which allowed interns without clearances to browse through the file storage room containing the FBI background files.

For some inexplicable reason after discovering its colossal mistake, the staff decided to throw out the one piece of supposed exculpatory evidence which would have explained a bureaucratic snafu. Incredibly the list that presumably explained the "snafu" was placed in a burn bag? Why, upon discovering such a mistake would someone destroy the evidence explaining that mistake?

Today we will learn that no list of active passholders could possibly have been created by the Secret Service that could explain how Anthony Marceca -- the man who took the Fifth Amendment before the Senate -- got 476 FBI background files of former Reagan and Bush officials. At any rate, no combination of errors attributed by the White House to the Secret Service can explain how and why Mr. Marceca obtained the FBI files.

Even if Mr. Marceca had used a Secret Service list combining active and inactive passholders, the "active" and "inactive" passholders were identified as "A" or "I." As the Secret Service witnesses will explain today, most of the FBI background files Mr. Marceca sought between December 1993 and early 1994 involved "inactive" passholders. Two hundred and seventy seven of the files would have been identified as "INACTIVE" on any list created by the Secret Service in the calendar year 1993. Craig Livingstone, Mr. Marceca's supervisor had been fully briefed on the lists and knew that it was only appropriate to seek the files of "ACTIVE" passholders.

Therefore the only list that could have resulted in Mr. Marceca's obtaining all of the 476 names which will be addressed today is a list of both "active" and "inactive" passholders. In using such a master list, he would have had to deliberately order the files of people identified as "inactive". Mr. Marceca has claimed in his prior deposition that he thought the designations "A" and "I" on the Secret Service lists meant "Access" and "Interns."

Mr. Marceca would have us believe that when he ordered the FBI background files of such people as Ken Duberstein, A.B. Culvahouse and Tony Blankley, and hundreds of other Bush and Reagan officials, he thought he was ordering the files of "holdover interns" from the Bush and Reagan Administration.

Does anyone really believe that Mr. Marceca, a longtime Democratic party activist, thought the Clinton Administration wanted to keep interns who were in their 30s and 40s and up and just happened to have the same names as prominent Republicans on board as "interns"! This was the White House who threw out Billy Dale and the Travel Office because they weren't "our people"!

Meanwhile, Mr. Marceca's own handwritten notes indicate that intern files were supposed to be in RED folders and WHITE HOUSE STAFF files in ORANGE folders. And what color were all of these folders Mr. Marceca collected? The FBI has informed us that the folders containing these files were ORANGE.

When you weigh the dubious explanations of characters of even more dubious reputation, you have to ask why we are spending so much time talking about Secret Service lists? The White House would like us to continue to go into this minutiae and talk about lists and point the finger at the Secret Service while ignoring the two characters who orchestrated this disaster. Craig Livingstone and Anthony Marceca are emerging as more shadowy figures with far more partisan and questionable backgrounds than the White House ever acknowledged.

On Monday, Mr. Marceca refused to provide subpoenaed documents to this Committee claiming a Fifth Amendment privilege over any documents he may have. I will leave it to others to speak for those who take the Fifth or give evasive answers. I am looking forward to hearing from the Secret Service today.

The more we learn, it becomes increasingly apparent that the White House knew exactly who they were hiring for these sensitive positions. Craig Livingstone's own resume boasted of his experience in campaign "counter events" activities. The Secret Service itself raised red flags with the White House about Craig Livingstone as an employee at the White House -- never mind as the choice for head of the Security office. Livingstone's background should have been concerned anyone who treated these matters with a modicum of seriousness.

Similarly, Mr. Marceca's background was such that once it was known, he was not kept on as a detailee although inexplicably he still had access to the White House for months thereafter at the White House. Why didn't the White House review Mr. Marceca's background before allowing him to order and review hundreds of FBI background files? They owed this to their own people never mind the hundreds of Bush and Reagan people who had their files rifled through. But Mr. Kennedy allowed both of them free rein to these sensitive files and said he had no concerns about either of them. You have to ask yourself what this says about senior officials in this White House.

And during it all, Mr. Livingstone was awarded a 40 percent salary increase -- 40 percent!! -- while keeping what appear to be banker's hours. In a particularly audacious August 1995 memo to former White House Counsel Abner Mikva, Livingstone claimed he had seen his office "through a few storms" and "it would be wrong not to approve my request [for a \$12,500 salary increase]...not just because I was promised but because I have demonstrated that I deserve it." In another memo he claimed that his \$57,500 salary forced him to live "pay-check-to-pay-check [sic]." Mr. Livingstone continued, "I apologize for my tone but this is my last try to remain part of the team." Why was it so important to this

White House that Mr. Livingstone remain on the Clinton team?

Apparently Craig Livingstone was a valued team player because he did indeed obtain his raises. He even was provided with a coveted private office in recent months. Yet today we can't find anyone who will acknowledge knowing him well and no one admits to hiring him. Conveniently enough, the White House points the finger at Vince Foster. And while no one will yet claim responsibility for hiring him, the more interesting question may be, why couldn't or didn't anyone fire him? Even after this story broke no one at the White House fired him. He finally fired himself by resigning.

Now we learn that even then-Democratic Senate Intelligence Committee Chairman DeConcini quietly sent in his senior intelligence staff to make recommendations which included placing a serious and professional director in this sensitive office -- a recommendation which was ignored.

Perhaps none of this ever would have happened if those in charge at the White House had responded in a responsible way to any of the numerous red flags waved in this situation. Now, the White House also doesn't want us to focus on the fact that the White House was having serious problems of its own getting its own people through the background investigation process while the wildly inappropriate duo of Livingstone and Marceca gathered the files of hundreds of former Reagan and Bush officials.

The story that the White House doesn't want to talk about gets curiouser and curiouser. Instead of exploring more about Mr. Livingstone and Mr. Marceca and their sponsors at the White House, the White House continues to point fingers and lay blame elsewhere. Since the American people have not bought its defense of "we are only incompetent," the White House is trying to accuse others of incompetence. Today, I believe we will dispense with one red herring and move on to finding out why these individuals sought these files and for what reasons.

We have three witnesses appearing before the Committee today. All of whom are veteran Secret Service agents who have been involved in reviewing the information the White House and Secret Service rely upon to control access to the White House complex.

While they do not have prepared testimony I understand that Special Agent Libonati does have some opening remarks which he will be recognized for after an opening statement from the Ranking Member, Mrs. Collins.

Before recognizing Mrs. Collins, I ask unanimous consent that the depositions of the witnesses appearing before us today be made part of the hearing record and that other relevant documents and memos also be entered into the hearing record.

Archer sets deadline for White House on 'Filegate'

By Sandy Hume

The House Ways and Means Committee has set a July 11 deadline for the Clinton administration to explain how and why it improperly obtained tax records on former GOP White House employees.

If the Clinton administration fails to respond, the panel may hold hearings on whether White House aides were guilty of crimes.

House Republicans hope that the tax angle of "Filegate" will make criminal a campaign-year scandal that has thus far been dismissed by the White House as "a bureaucratic snafu," and will lead to further hearings and possibly indictments.

The query began with an unsolicited June 25 letter to House Ways and Means Chairman Bill Archer (R-Texas) from Howard M. Shapiro, general counsel to the FBI. Shapiro informed Archer that when the White House returned 406 background files to the FBI, two of the files contained tax return information from the Internal Revenue Service.

"These documents were never part of the FBI files on these individuals, but were apparently added to the folders by White

House staff after receipt from the IRS," Shapiro wrote. "The FBI does not request nor receive any information from the IRS as part of the background information process."

Archer last week fired off letters to Treasury Secretary Robert Rubin, IRS commissioner Margaret Richardson and White House counsel Jack Quinn requesting an explanation of standard White House procedures on tax return information and details of how it handled tax records of former White House employees.

Further, Archer requested that the White House explain what it did with the tax information of Travel Office employees fired in the spring of 1993. For example, the committee would like to determine if the White House reviewed tax records of Billy Dale, the fired Travel Office director who became the central figure in "Travelgate."

The committee also wants to determine if an IRS probe of UltraAir, Inc., a company that worked with the White House Travel Office, was politically motivated. The company's records were reportedly seized two days after Travel Office employees were fired.

But the most politically charged issue currently is the handling of files of former White House employees. And that is a central component of Archer's probe.

"If files containing tax return information are not handled in accordance with procedures designed to safeguard taxpayer privacy, then an unlawful disclosure of tax information may occur," Archer wrote to Quinn, noting that such a violation "may be punishable as a felony."

The thrust of the investigation is what Anthony Marceca, White House security official, did with the IRS reports. The committee wants to determine when the files were obtained, how many there were, and whether the White House shared the contents with anyone not privileged to see tax files.

The uncertainty surrounding their handling parallels that surrounding the FBI files, but, Archer makes clear in his letters, the IRS files are protected by laws designed to prevent their use for political purposes.

"The privacy protections ... were enacted in 1976 as a response to the Watergate scandal, part of which involved attempts to misuse the IRS,"



PAMELA HAZEN/THE HILL

Rep. Archer wants answers from the White House by July 11.

Archer wrote to Quinn.

Some Republicans believe Marceca invoked the Fifth Amendment when called before the Senate out of a concern over precisely this issue. "The tax laws are pretty clear on this kind of stuff," said one GOP staffer close to the investigation.

Republicans concede, however, that it is quite possible that the handling of tax information was not criminal. The White House customarily obtains tax information from the IRS in researching job applicants. Prospective employees sign a waiver granting permission for expansive background checks, which could limit their grounds for later complaints.

It could be that Marceca's lone error was in mistakenly sending tax information to the FBI.

Archer has accordingly re-

quested a copy of the waiver and asked whether any employees whose tax records were obtained had not signed it.

He also sent a follow-up letter to the FBI, notifying Shapiro of the committee's intent to review the files for any other tax information the FBI may have missed.

"The persons who reviewed the contents of the 406 folders may not have had experience necessary to identify all items of information which are treated as 'tax return information,'" Archer wrote.

There was also information the FBI reported receiving with a folder titled "IRS Returned March-April 1993." Shapiro said that five sheets of paper with the names of "numerous individuals and notations as to whether [tax] reports are complete or incomplete" were in the folder.

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SUBCOMMITTEE ON CIVIL SERVICE

TO: Jack Quinn, Esq.

FAX: 456-6279 Phone: _____

FROM: Garry Ewing - Civil
Service Subcommittee

OPERATOR: _____

DATE: 5/3/96

PAGE TOTAL IS 11, INCLUDING COVER SHEET.

COMMENTS: Mr. Quinn - This questionnaire was
supposed to be attached to the letter
sent to you 5/2 (the Mike Clinger
letter).

If there are any problems with this transmission, please call 202/225-6429

**THE WHITE HOUSE
WASHINGTON**

PERSONAL DATA STATEMENT QUESTIONNAIRE

FROM: OFFICE OF THE COUNSEL TO THE PRESIDENT

As part of the clearance procedures for your prospective position, please answer all of the following questions (Please do not respond "Not Applicable" or "N/A" if your answer is "No" or "None"). In responding to the questions, please supply any information regarding your spouse or relatives that you deem to be relevant. Your responses to this questionnaire, as it is not subject to public disclosure, are confidential.

You can type your responses in memorandum form on a separate sheet of paper with each answer corresponding to the number of the question. You do not need to retype the questions, but please sign and date the attachment.

Because your appointment cannot be finalized until all necessary reviews have been completed, and because our review begins with the receipt of your paperwork, please supply this information within 30 days to Craig Livingstone, Director White House Security, at OXOS 84, Washington DC, 20500.

If you have any questions or need assistance in responding to this questionnaire, please contact Cliff Mauton, White House Counsel's Office at (202)456-6229. Thank you for your cooperation.

Personal and Family Background

1. Please list your full name; home address and telephone number; office address and phone number; date and place of birth; citizenship; and social security number.

2. Please identify your current marital status; spouse's name, citizenship, occupation, and current employer; and the names and ages of your children.

3. Do you have any medical conditions that could interfere with your ability to fulfill your duties? Please explain.

Professional and Educational Background

4. Please list each high school, college, and graduate school you attended; the dates of your attendance; and degrees awarded.

5. Please furnish a copy of your resume and a brief biographical statement.

6. Please chronologically list activities, other than those listed on your resume, from which you have derived earned income (e.g., self-employment, consulting activities, writing, speaking, royalties, and honoraria) since age 21.

7. Please list each book, article, column, or publication you have authored, individually or with others.

8. Identify each instance in which you have testified before Congress in a non-governmental capacity, and specify the subject matter of each testimony.

9. Please list corporations, partnerships, trusts, or other business entities with which you have ever been affiliated as an officer, director, trustee, partner, or holder of a significant equity or financial interest (i.e., any ownership interest of more than 5%), or whose decisions you had the ability to influence. Please identify the entity, your relationship to the entity, and the dates of service and/or affiliation.

10. Please provide the names of all corporations, firms, partnerships, trusts, or other business enterprises, and all non-profit organizations and other institutions with which you are now, or during the past five years have been, affiliated as an advisor, attorney, or consultant. It is only necessary to provide the names of major clients and any client matter in which you and your firm are involved that might present a potential conflict of interest with your proposed assignment. Please include dates of service.

11. With regard to each of the entities identified in the preceding question, please identify your relationship or duty with regard to each. Please include dates of service.

12. Other than the entities identified in question 10 above, please provide the names of any organizations with which your association might present a potential conflict of interest with your proposed assignment. For each entity you identify in your response to this question, please provide your relationship or duty with regard to each. Please include dates of service.

13. Please describe any contractual or informal arrangement you may have made with any person or business enterprise in regard to future employment. Include termination payments or financial benefits that will be provided for you if you enter government employment.

14. If you are a member of any licensed profession or occupation (i.e., lawyer, doctor, accountant, insurance or real estate broker, etc.) please specify the present status of each license; and, whether any such license has ever been withdrawn, suspended, or revoked, including the reason therefor.

15. Do you have a significant interest in any relationship with the government through contracts, consulting services, grants, loans, or guarantees? If so, please provide details.

16. Does your spouse or any family member or any business in which you, your spouse or any family members have a significant interest, have any relationship with the federal government through contracts, consulting services, grants, loans, or guarantees? If so, please provide details.

17. If you have performed any work for, and/or received any payments from, any foreign government, business, or individual in the past 10 years, please describe the circumstances. Please identify the source, as well as the dates of services and/or payments.

18. Please list any registration as an agent for a foreign principal, or any exemption from such registration. Please provide the status of any and all such registrations and/or exemptions (i.e., whether active and whether personally registered).

19. Have you ever registered as a lobbyist or other legislative agent to influence federal or state legislation or administrative acts? If so, please supply details, including the status of each registration.

Tax and Financial Information

20. As of the date of this questionnaire, please list all assets with a fair market value in excess of \$1,000 for you and your spouse. Please provide a good faith estimate of value.

21. As of the date of this questionnaire, please list all liabilities in excess of \$10,000 for you or your spouse. Please list the name and address of the creditor, the amount owed to the nearest thousand, a brief description of the nature of the obligation, the interest rate (if any), the date on which due, and the present status (i.e., is the obligation current or past due).

22. Please describe all real estate held in your name or in your spouse's name during the last six years. Please include real estate held in combination with others, held in trust, held by a nominee, or held by or through any other third-person or title-holding entity. Please include dates held.

23. Have you and your spouse filed all federal, state and local income tax returns?

24. Have you or your spouse ever filed a late income tax return without a valid extension? If so, describe the circumstances and the resolution of the matter.

25. Have you or your spouse ever paid any tax penalties? If so, describe the circumstances and the resolution of the matter.

26. Has a tax lien or other collection procedure ever been instituted against you or your spouse by federal, state or local authorities? If so, describe the circumstances and the resolution of the matter.

Domestic Help Issues

27. Do you presently have or have you in the past had domestic help? (i.e., a housekeeper, babysitter, nanny, or gardener) If so, please indicate years of service for each individual and give a brief description of the services rendered.

Public and Organizational Activities

28. Please list current and past political party affiliations.

29. Have you ever run for public office? If so, does your campaign have any outstanding campaign debt? If so, are you personally liable? Please provide complete information as to the amount of debt and creditors.

30. Please list each membership you have had with any civic, social, charitable, educational, professional, fraternal, benevolent or religious organization, private club or other membership organization (including any tax-exempt organization) during the past 10 years. Please include dates of membership and any positions you may have had with the organization.

31. Have you or your spouse at any time belonged to any membership organization, including, but not limited to, those described in the preceding paragraph, that as a matter of policy or practice denied or restricted affiliation based on race, sex, ethnic background, religious or sexual preference?

Legal and Administrative Proceedings and Filings

32. Please list any lawsuits you have brought as a plaintiff, or which were brought against you as a defendant or third party. Include in this response any contested divorce proceedings or other domestic relations matters.

33. Please list and describe any administrative agency proceeding in which you have been involved as a party.

34. Please list any bankruptcy proceeding in which you or your spouse have been involved as a debtor.

35. Have you or your spouse ever been investigated by any federal, state, military or local law enforcement agency? If so, please identify each instance and supply details, including: date; place; law enforcement agency; and court.

36. Have you or your spouse ever been arrested, or charged with, and/or convicted of violating any federal, state or local law, regulation or ordinance (excluding traffic offenses for which the fine was less than \$100)? If so, please identify each instance and supply details, including: date; place; law enforcement agency; and court.

37. Have you or your spouse ever been accused of or found guilty of any violations of government or agency procedure (specifically including securities violations and/or any application, or appeal process)?

38. Please list any complaint ever made against you by any administrative agency, professional association or organization, or federal, state or local ethics agency, committee, or official.

39. Please list any and all judgments rendered against you, including the date, amount, the name and subject matter of the case, and the date of satisfaction. Please include obligations of child support and alimony, and provide the status of each judgment and/or obligation.

40. With regard to each obligation of child support and/or alimony, please state the following: Have any payments been made late or have there been any lapses in payment? Have any motions or court actions for modification of child support or alimony been filed or instituted? Have any actions or motions to compel payment or initiate collection of late payments and/or past due amounts been filed or threatened? Have any writs of garnishment been issued? If your response was "yes" to any of the above questions, please provide details.

Miscellaneous

41. Have you ever had any association with any person, group or business venture that could be used, even unfairly, to impugn or attack your character and qualifications for a government position?

42. Do you know anyone or any organization that might take steps, overtly or covertly, fairly or unfairly, to criticize your appointment, including any news organization? If so, please identify and explain the basis for the potential criticism.

43. Please provide any other information, including information about other members of your family, that could suggest a conflict of interest, or be a possible source of embarrassment to you, your family or the President.

STATEMENT OF LISA WETZL

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

JUNE 26, 1996

I was employed at the White House Office of Personnel Security (OPS) beginning in June, 1993 as a White House Intern. In August, 1993, I became a Staff Assistant at OPS, and was promoted to Executive Assistant in the fall of 1994. I left that office in September, 1995 and presently work for the Department of the Army.

All of the staff of the OPS at that time was located in one room in the Old Executive Office Building. Off of that room was a locked door that led into a vault that OPS shared with the Office of Records Management. Others who worked in OPS at the time that I began to work there were Craig Livingstone, Mari Anderson and Nancy Gemmell.

At the start of my time in the OPS, most of our work was focused on the paperwork for full field investigations of new White House employees. This process began with the Secret Service performing an NCIC check, which usually took less than one day. After that check, an employee would be put on a 24-hour access list to the Complex. OPS staff would then request an FBI name check, which was initiated by sending over a preprinted memo to the FBI liaison. The name check took approximately two weeks. When the

name check was favorably returned, the individual was issued a temporary hard pass.

When the name check was complete, OPS sent the same preprinted memo to FBI liaison with a request for a full field investigation. Attached to this form was a Standard Form 86, which had to be completed by the employee. Much of my initial work in the office involved making sure that these forms were filled out correctly. Once the completed forms were sent to the FBI, the results of the full field investigation were sent to an Associate White House Counsel.

Another project that was being undertaken was reconstructing the files of the many holdover employees, detailees, agency representatives, et al., who had access to the White House Complex. These included permanent White House employees and those detailed to the White House from agencies. I was informed that this project was necessary because at the end of every Administration, all of the security files of people with access to the White House Complex are boxed up and sent to the National Archives with Presidential Papers. Therefore, there were no files on holdover employees and there was no way to tell when those employees needed to have the routine update of the FBI background investigation that I understood was required every five years. This undertaking was known as the Update Project.

I became aware of the need to do the Update Project from Nancy Gemmell. Nancy was the only career employee left in the

office at that time, since all of the others had retired either at the end of the Bush Administration or a few months thereafter. She was our primary source of information on procedures. Prior to her retirement in August, 1993, I was at a meeting with Nancy and Mari Anderson in which Nancy was giving us as much information as she could about what needed to be done and how it should be done. I do not remember exactly what she said about the Update Project, but I came away with a general understanding of the goals of the Project. I also knew that she had started on the Update Project and that she had left the materials she had been using in the vault.

Nancy retired at about the same time that Tony Marceca's detail began. I did not supervise or work on projects with Tony, but because we were all in one room I had a general understanding of what he was doing. Like the rest of us in the office, I understood that at the start of his detail he was primarily working on the paperwork for FBI full field background investigations of new employees. At some point after he started, I understood that he began to work on the Update Project.

I do not know the details of how Tony was doing the Update Project. I could see, however, that he was using a Secret Service list because of the distinctive green and white computer paper on which those lists are printed. In addition, while I knew these lists were not entirely accurate, they were the only source of

information OPS could work from in trying to determine the names of all of the holdover employees.

Tony left our office in February, 1994. For many months, no substantive work was done on the Update Project. I knew that Tony had left some files he had accumulated in the vault, but I did not look at them (nor was I aware of anyone else looking at them) until I began to work on the project in the late fall of 1994.

When I first picked up the project, I looked at the materials that both Nancy and Tony had gathered in their work on the Update Project. Nancy's materials were in the vault, and they consisted of a Secret Service list and hundreds of completed one-page FBI request forms with Bernard Nussbaum's name on them. These forms were stacked in alphabetical order. When I looked at the Secret Service list she had left, I knew immediately that it was out of date. It was extremely long, and appeared to contain hundreds of names from past administrations. These names were listed in alphabetical order. I do not recall that it had any indication of whether an employee was active or inactive. Although I could not be certain, it looked to me as though Nancy had attempted to complete an FBI request form for each name on the Secret Service list. I determined that these forms and the list had so many out of date names that they would be more work to sort through than to start over from scratch. Therefore, I threw away this list and the forms.

In looking at the files Tony had accumulated, I was struck immediately by the sheer number of files. I noted that they were in alphabetical order from A to G, and the files seemed to vastly outnumber the active White House staff whose names would fall in that range. In looking at the labels on the files, I noticed many names that I did not recognize. The first name that jumped out at me was Marlin Fitzwater. I immediately concluded that Tony must have ordered previous reports for every person on whatever out-of-date Secret Service list he was working from.

As I reviewed the names on the labels, I also determined that Tony had accumulated many of the files that I needed. I was exasperated that I would now have to sort through a lot of useless files in order to pull out the ones I needed. At no time was I alarmed by what Tony had done -- I thought he had simply made a mistake that I was going to have to clean up.

The files Tony had left were color-coded with orange labels, which indicated White House staff. I do not recall seeing a Secret Service list in or around these files. However, in the course of assuming the Update Project, I learned that files for several other categories of holdover employees had already been requested, I presume by either Nancy or Tony. These files had already been incorporated into our "working files" of active passholders and, therefore, were not grouped together in separate bins.

Over the next several months, I culled through the files Tony had left. By September, 1995 when I left the OPS, I believe the Update Project was complete. My technique for sorting through Tony's files and for determining what additional previous reports I should order from the FBI was to start with a Secret Service list. The list I used was provided to us by the Secret Service on a monthly basis, but we could ask for updated copies more frequently. I understood that this was the Secret Service's list of active passholders.

It was well known around our office that the Secret Service lists included names of people who no longer had active passes. I would check out each name on the list before ordering a previous report from the FBI by calling the office in the White House where that person supposedly worked. I also asked the supervisors of various offices to write me a list of the holdover employees who worked in those offices. In this fashion, I was able to develop my own list of those who were truly holdover employees.

On many occasions, I would inform the women who worked in the Secret Service office who had provided us with the lists that their lists contained names that should no longer be there, or that persons were listed as working in the wrong office. As time passed, these lists became more up to date.

After determining which of Tony's files I did not need, I put them in boxes to send to the Office of Records Management. Consistent with standard practice, I typed an inventory sheet

containing the names on the labels of these files. I sent this inventory sheet with the boxes to Records Management.

In the course of finishing the Update Project, I occasionally discovered that I had sent to Records Management a file for someone who was, in fact, an active employee, detailee, etc. I requested and received these files back from Records Management. I put these files with all of the other files of OPS on active White House employees in the vault.

During the time I worked on the Update Project, I reviewed the contents only of files of employees whose active status I had confirmed. I was not reviewing the files for content, but to determine the date of their last background investigation. At no time did anyone ask me to provide them with a file of any past administration official, and I have no knowledge of anyone in the Clinton Administration using these files for any improper purpose.

TESTIMONY
of
JANE DANNENHAUER
before
Committee on Government Reform and Oversight
U. S. House of Representatives

June 19, 1996

Mr. Chairman and Members of the Committee:

My name is Jane Dannenhauer. I retired in March 1993 from the Federal Government with over 27 years of service.

I departed the White House Staff on March 1, 1993. Until January 20th of that year, I held the position of Assistant to the Counsel to the President with the responsibility of directing the White House Security Office under the Counsel to the President.

Our Security Office, with a staff of five, was responsible for providing, through Secret Service, clearance into the White House Complex all White House Personnel, and all other permanent staff of support offices, such as Records Management, Correspondence, Communications, Telephone Operators, and other offices that continue operation from administration to administration.

At the beginning of a new administration, the major thrust obviously is to clear all new White House personnel. They along with the prospective Presidential Appointees have the very highest priority in our clearance process. Prior to January 20, 1981, the focus was to provide the names of new staff members to Secret Service along with the FBI Name Check information to allow admittance to the Complex on the appointed day.

After January 20, and for several months thereafter, the White House Security Office was consumed with the collection of Standard Form 86, completed and signed, from the proposed Presidential Appointees and new White House staff members for the FBI to complete the background investigations as expeditiously as possible.

Later in the first year of a new administration, as time permitted, we started the process of reconstructing the files on support personnel. Although this project was not a priority, it was necessary to have the prior FBI reports of these current employees in order to implement the policy of updating background investigations on a four-year cycle. The

reason this project was not a top priority was the fact that these employees had completed background investigations and held permanent passes. In this connection, we requested and received from the FBI copies of these previous reports. These reports were placed in our vault and the dates of completion recorded in a log to determine when to begin the four-year update in each case. Each previous report received from the FBI was reviewed by me and sent to the Deputy Counsel or Counsel, if an earlier update might be indicated. In this manner, Counsel was aware of any possible problems with the existing personnel as well as the new personnel. This update process continued throughout each administration of which I was a part and included only those employees currently working at the White House. During the years I was responsible for the Security Office, I was very fortunate to have dedicated and loyal staffs who were honored to serve the Presidency. There were no detailees from other agencies in the Security Office, or volunteers without full FBI background investigations. In the Reagan and Bush administrations, my assistant was Nancy Gemmell who worked with me for twelve years, and she, as well as our other three assistants, were detail-oriented and meticulous with the handling and storage of these very private files. They and the staffs of prior years were well aware of the sensitivity of the files and the extreme caution needed to protect them.

I was privileged to serve in four administrations, starting in October 1972 with the Nixon administration. I was employed by the Ford, Reagan and Bush administrations in the same capacity. Also at the request of Mr. Robert Lipshutz, Counsel to President Carter, I and one of my assistants remained for two and one-half months to train a new staff member and to await a director. By so doing, such assistance ensured a smooth transition.

I would be pleased to answer your questions. Thank you.

TESTIMONY
of
RICHARD A. HAUSER
before
Committee on Government Reform and Oversight
U. S. House of Representatives

June 19, 1996

Mr. Chairman and Members of the Committee, I am pleased to appear before you today as you address the important issue of White House handling of FBI background files for staff and political appointees. I hope that my experiences from the Reagan Administration will be helpful to the Committee.

I had the honor of serving as Deputy Counsel to President Ronald Reagan from early 1981 until my departure for the private practice of law in mid 1986. Since that time, I have been a partner with the law firm, Baker & Hostetler, and until April 1 of this year, I had the privilege of serving as Chairman of the Pennsylvania Avenue Development Corporation. Prior to my service as Deputy Counsel, my government experience included service in the White House Counsel's Office during the last year of the Nixon Administration and in the Office of the Deputy Attorney General. I also served as an Assistant United States Attorney in the Southern District of Florida and as law clerk to the Chief Judge of the United States District Court for that same district.

As Deputy Counsel, I was involved in the clearance process for Presidential appointees and White House staff. At some point in 1981, I was asked by Fred Fielding, Counsel to the President, to undertake a greater role in the review of background investigations and over time assumed primary responsibility. I would continue to share and discuss with Mr. Fielding background reports that raised questions and required his judgment because of the issue, position, or individual involved. The results of the background report would be considered along with responses to the confidential White House counsel's questionnaire and compliance with the requirements of the Ethics in Government Act before an individual would be cleared for appointment or, in the case of staff, a permanent pass issued. I would note that the Reagan Administration was the first incoming administration to have to deal with the public financial disclosure statements and other provisions of the Ethics Act, and to assist us, a senior attorney was detailed to our office from the Office of Government Ethics.

Background reports were treated with great respect and access was restricted to the Counsel's office. To my knowledge, and I have discussed this with Fred Fielding, background files were never shown to others in the White House including the President, Vice-President, Chief of Staff, or the Director of Presidential Personnel. It was understood and accepted that it was the Counsel's job to decide whether clearance should be approved, and this decision would have been made by Mr. Fielding or me. Certainly, there were a

small number of instances in which aspects of a background report would have been discussed, but it was on a need to know basis and without sharing the file.

Our system also involved careful handling of background files of nominees requiring Senate confirmation. In those instances, a nominee's background would be shared, upon request, with the Committee Chairman and Ranking Member, or other member designated by them, but here, too, the control was tight. The file would be taken by an attorney in the Counsel's office and made available for the Member's review in the attorney's presence. The file would then be returned in the attorney's custody to the White House.

In addition to the appointment process and staffing of the White House, which was a continuing process throughout the Administration, the files of White House staff, career or appointed, would be updated on a routine basis, usually every four years. These, too, would be reviewed by me if they contained any derogatory information, and access to the files was similarly limited. I do not recall any instance in which the report of an official from a prior administration was requested unless it was in connection with an appointment by President Reagan.

Restricting access to the information contained in the FBI background reports was intended to serve two important purposes:

1. Assuring the privacy of the prospective appointee or staff member; and
2. Maintaining the integrity of the background investigation process.

These issues have larger public policy implications. There is already a significant loss of privacy imposed on individuals entering public service, and the careless treatment of privacy protections will surely be a deterrent for some considering public service. When called, some will stand aside. I am personally aware of highly qualified individuals who refused the call to serve fearing loss of privacy. This response is likely to be reinforced by a breakdown in the handling of FBI files. The ramification for staffing future Administrations is serious.

Moreover, a background report is designed to produce complete and accurate information on the character, associates, reputation, and loyalty of the subject of the background check. Understandably, when interviewed by the FBI, friends, associates, co-workers, and neighbors of the subject are often reluctant to be candid, particularly if they are aware of derogatory information, for fear that it may be leaked or improperly circulated. As a consequence, these sources may "sugar coat" important information or seek anonymity for fear of attribution, thus diluting the quality and usefulness of the background report. We can all recall instances where issues relating to suitability were not adequately surfaced during a background investigation. This problem is likely to be compounded in the future. This is also a concern shared by the FBI.

Finally, the careless or casual handling of matters so sensitive and personal as background investigations erodes the confidence of citizens not only in the integrity of the decision making process but in government generally. Once this trust is lost, it is hard to regain.

I would also like to make a brief comment about the Special Inquiry ("SPIN") unit of the FBI. I had the privilege of working with several chiefs of that unit who were dedicated, hard working, and responsive. We worked cooperatively to improve and expedite the background investigation process, and any problems encountered would be discussed and resolved. Our experiences, for example, led to a revision of the Standard Form 86, used to commence a background investigation, by eliminating certain unnecessary data, which slowed down the process, and requesting other pertinent information.

I hope this information is helpful, and I would be pleased to answer any questions Members of the Committee may have. Thank you.

Name	Date
Shelly, Peterson	9/22/99

Covered

TESTIMONY OF C. BOYDEN GRAY
BEFORE THE HOUSE GOVERNMENT REFORM & OVERSIGHT COMMITTEE
June 18, 1996

Background Investigations in the Bush Administration

There are essentially three ways by which the White House reviews the background of administration employees: (1) requesting FBI "name checks" for persons needing access to the White House while their full background investigation is being conducted; (2) requesting FBI background investigations of the administration's prospective political appointees and White House staff; (3) recreating and updating the security files for those White House employees and others with White House access who remain in their jobs from one administration to the next. The tasks of reviewing these reports and making judgments about the information they contain traditionally rest on the shoulders of the White House Counsel's office.

The White House conducts a background investigation of some sort on any person requesting access to the White House complex, and on any person who is being considered for a presidential appointment. How extensive the review is depends on the situation. A state department staffer visiting on a one-time basis to assist in a briefing may be cleared based on a "name check," which I shall describe more fully below. By contrast, a

military aide assigned to work every day with the National Security Council will require a full background investigation.

During the Johnson Administration, an office was established in the White House in order to assist the Counsel in processing the ever-growing number of background reviews. In the Reagan-Bush years, the head of that office, which eventually became the White House Security Office, had the title "Assistant to the Counsel to the President for Security," reflecting her role as an arm of the White House Counsel's office.

The members of the Security Office are responsible for coordinating the paperwork and authorization forms that individuals must complete before the background investigation can commence, organizing and maintaining files with the results of these investigations and reviewing these reports for any questionable information that should be brought to the attention of the White House Counsel. It is a largely thankless job, requiring long hours, superb organizational skills, attention to detail, and total discretion. It was at also a job that had no authority to make judgements based on the FBI investigations. Those judgments were the province exclusively of the White House Counsel and his Deputy, working with the Chief of Staff and the President.

I. NAME CHECKS

In the months following the inauguration of a new President, one of the administration's top priorities is to

complete background investigations on the hundreds of new appointees and employees with White House access. The process begins with a "name check" -- a relatively quick procedure whereby a person's name and social security number are checked against various FBI computer databases to ascertain whether the individual has a criminal history, arrest record or outstanding arrest warrants. This is the same procedure used by the Secret Service to screen casual visitors to the White House.

Once people are cleared through the name check procedure, they are eligible to receive temporary access to the White House complex while their full background investigation is processed.

II. BACKGROUND INVESTIGATIONS

Prospective presidential appointees (such as cabinet secretaries), senior White House staff, and individuals needing repeated or permanent access to the White House (such as clerical staff or military aides) must undergo a more thorough background investigation. These investigations begin by having the individual complete and sign a "Standard Form 86," which authorizes the FBI to conduct the background investigation. The FBI then conducts an exhaustive investigation, and reports its findings in summary form to the White House.

Understandably, in the first 6-9 months of any administration the Security Office and the White House Counsel are overwhelmed by the crush of processing and reviewing hundreds

of background checks for presidential appointments and new employees. The inevitable backlog that results from so many investigations being requested at once requires the Security Office staff to spend 12-14 hour days just to manage the paper flow.

One thing I cannot stress enough is how sensitive these background investigations are. It is crucial for the administration to have a full and candid reporting on any aspect of an individual's background that may pose a security risk to the United States or, in the case of a presidential appointee, a political risk to the presidency. It is equally critical that this full and candid reporting be handled with the utmost care. Many reports contain rumors, gossip and embarrassing details of events long passed. Often times, the information in a background report, such as reports of an extra-marital affair, does not merit disqualification from service at the White House, but if revealed would prove terribly embarrassing to the individual involved.

It is an unfortunate fact of modern day governmental service that those in sensitive positions must submit to such an intrusive procedure. And yet hundreds of people submit to this process each year, in return for the privilege of serving the Presidency and the country. That is why I and my colleagues in the Bush Administration considered it an essential element of the pact of government service that the information gathered through this process will not be abused.

The Bush Administration employed careful procedures to ensure that background investigation files were reviewed only on a "need to know" basis. Review was permitted only by myself, my Deputy Counsel, the Director of the Security Office and, on rare occasions, associate White House counsel who were assigned by me or my deputy to handle a specific matter. We did not let others in the White House read the files, and we did not share the contents of the files with anyone who did not have a real need to know the information therein. For example, if the report was prepared for a nominee requiring Senate confirmation, only the Chair and ranking minority member of the relevant committee would review the report. Not even President Bush read the contents of these files.

We also employed procedures to ensure that the files were maintained securely. The background reports were maintained by the Security Office in a locked vault, shared by the Security Office and the presidential archivists. Within the vault, the Security files were separated from the area used by the archivists. Even at the end of an administration, when all files are archived pursuant to the Presidential Records Act, the Security files are placed in boxes and sealed by Security Office personnel, stored separately from other archived documents, and remain sealed for a minimum of 20 years.

III. UPDATES

When a new administration arrives at the White House on inauguration day, virtually all of the prior administration's records have been removed for storage in the presidential archives. These archived records include the Security Office records of the background investigations performed for every person with access to the White House complex. Thus, the Security Office of the incoming administration arrives to find the shelves and the filing cabinets virtually empty. Even the files relating to nonpolitical, career White House employees, such as cooks, valets or chauffeurs, will have been archived. That is what we found in transition from the Reagan administration, and it is what President Clinton's people would have found in transition from the Bush administration.

Much has been said lately about the process of updating the Security Office files on those who work at, or whose work requires regular access to, the White House complex. These "updates" are required to be performed four years after an individual's original background investigation, and every four years thereafter. The purpose of the update is to inform the White House Counsel whether an individual has engaged in any improper conduct since the most recent background investigation. Nevertheless, updates are a lower priority than the initial background investigation, because by definition, a person requiring an update has already been cleared for access.

Thus, it is only after the process of obtaining background investigations for presidential appointees and White House staff is substantially complete that the Security Office turns to the process of updating background investigations for permanent employees. Every new administration has to start this process from scratch, because the files of the prior administration's Security Office will have been sent to that President's archives. The new Security Office will not even have so much as a list reflecting who the permanent White House employees are, or when their last background investigations were performed.

The Bush Administration's procedures for processing updates consisted of 4 basic steps: (1) the Security Office would obtain from the Secret Service and verify a current list of pass holders with access to the White House complex; (2) the Office would request from the FBI copies of the previous background reports concerning those on the list; (3) the head of the Office would review the prior reports to ascertain the date of the last background check, and to bring any derogatory information to the attention of the White House counsel; and (4) the Security Office would send a new Standard Form 86 to be completed by employees as they came due for an update investigation.

1. List of Current Pass Holders: The Security Office regularly obtains from the Secret Service a list of the current White House complex pass holders, including employees hired by

the new administration, employees who work at other agencies or outside contractors but require regular access to the White House, as well as permanent support staff. This list is voluminous at any given time, consisting of well over 1,000 names.

Upon receiving the Secret Service list, the Security Office reviews the names to confirm that the people listed have a current need for access. The reasons for confirmation are (1) the realization that the Secret Service list may not be 100% accurate, and (2) to avoid the waste of time involved in processing update paperwork for someone who no longer needs access to the White House. During the Bush Administration, the Security Office performed this confirmation through a variety of informal means. In some instances, the official reviewing the list simply had personal knowledge that a person listed was a known current employee. In other instances, names on the list were cross-checked with the White House directory, lists obtained from the White House personnel office, or different offices within the White House.

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IV. DIFFERENCES IN THE CLINTON WHITE HOUSE

Before leaving in March 1993, Jane Dannenhauer, the Director of the Bush Administration's Security Office, briefed multiple lawyers from the Clinton White House Counsel's office on the procedures we in the Bush Administration followed with regard to background investigations and updates. She also briefed the

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one in that office to review the content of an FBI investigative report. Moreover, we did not allow detailees from outside the White House or volunteers to work in the Security Office at all, because they themselves lacked the security clearance required to have access to the sensitive information maintained by the Office. Even detailees from elsewhere in the White House were limited to tasks that did not involve reviewing the FBI reports. Finally, as stated above, all judgments based on these background investigations were reserved to the White House Counsel and his Deputy, working in conjunction with the Chief of Staff and the President.

IV. CONCLUSION

While it may seem to some like routine paper-pushing, the process of obtaining and updating FBI background investigations is one of the most important and sensitive functions performed by the White House Counsel and the Security Office. We are entrusted on the one hand with protecting the security of the President and the country, and on the other hand with maintaining the integrity of the background investigative process. This process cannot work if those who serve the White House lack confidence that by submitting to these invasive investigations, their privacy will not be violated.

TESTIMONY OF C. BOYDEN GRAY
BEFORE THE HOUSE GOVERNMENT REFORM & OVERSIGHT COMMITTEE
June 18, 1996

Background Investigations in the Bush Administration

There are essentially three ways by which the White House reviews the background of administration employees: (1) requesting FBI "name checks" for persons needing access to the White House while their full background investigation is being conducted; (2) requesting FBI background investigations of the administration's prospective political appointees and White House staff; (3) recreating and updating the security files for those White House employees and others with White House access who remain in their jobs from one administration to the next. The tasks of reviewing these reports and making judgments about the information they contain traditionally rest on the shoulders of the White House Counsel's office.

The White House conducts a background investigation of some sort on any person requesting access to the White House complex, and on any person who is being considered for a presidential appointment. How extensive the review is depends on the situation. A state department staffer visiting on a one-time basis to assist in a briefing may be cleared based on a "name check," which I shall describe more fully below. By contrast, a

military aide assigned to work every day with the National Security Council will require a full background investigation.

During the Johnson Administration, an office was established in the White House in order to assist the Counsel in processing the ever-growing number of background reviews. In the Reagan-Bush years, the head of that office, which eventually became the White House Security Office, had the title "Assistant to the Counsel to the President for Security," reflecting her role as an arm of the White House Counsel's office.

The members of the Security Office are responsible for coordinating the paperwork and authorization forms that individuals must complete before the background investigation can commence, organizing and maintaining files with the results of these investigations and reviewing these reports for any questionable information that should be brought to the attention of the White House Counsel. It is a largely thankless job, requiring long hours, superb organizational skills, attention to detail, and total discretion. It was at also a job that had no authority to make judgements based on the FBI investigations. Those judgments were the province exclusively of the White House Counsel and his Deputy, working with the Chief of Staff and the President.

I. NAME CHECKS

In the months following the inauguration of a new President, one of the administration's top priorities is to

complete background investigations on the hundreds of new appointees and employees with White House access. The process begins with a "name check" -- a relatively quick procedure whereby a person's name and social security number are checked against various FBI computer databases to ascertain whether the individual has a criminal history, arrest record or outstanding arrest warrants. This is the same procedure used by the Secret Service to screen casual visitors to the White House.

Once people are cleared through the name check procedure, they are eligible to receive temporary access to the White House complex while their^s full background investigation is processed.

II. BACKGROUND INVESTIGATIONS

Prospective presidential appointees (such as cabinet secretaries), senior White House staff, and individuals needing repeated or permanent access to the White House (such as clerical staff or military aides) must undergo a more thorough background investigation. These investigations begin by having the individual complete and sign a "Standard Form 86," which authorizes the FBI to conduct the background investigation. The FBI then conducts an exhaustive investigation, and reports its findings in summary form to the White House.

Understandably, in the first 6-9 months of any administration the Security Office and the White House Counsel are overwhelmed by the crush of processing and reviewing hundreds

of background checks for presidential appointments and new employees. The inevitable backlog that results from so many investigations being requested at once requires the Security Office staff to spend 12-14 hour days just to manage the paper flow.

One thing I cannot stress enough is how sensitive these background investigations are. It is crucial for the administration to have a full and candid reporting on any aspect of an individual's background that may pose a security risk to the United States or, in the case of a presidential appointee, a political risk to the presidency. It is equally critical that this full and candid reporting be handled with the utmost care. Many reports contain rumors, gossip and embarrassing details of events long passed. Often times, the information in a background report, such as reports of an extra-marital affair, does not merit disqualification from service at the White House, but if revealed would prove terribly embarrassing to the individual involved.

It is an unfortunate fact of modern day governmental service that those in sensitive positions must submit to such an intrusive procedure. And yet hundreds of people submit to this process each year, in return for the privilege of serving the Presidency and the country. That is why I and my colleagues in the Bush Administration considered it an essential element of the pact of government service that the information gathered through this process will not be abused.

The Bush Administration employed careful procedures to ensure that background investigation files were reviewed only on a "need to know" basis. Review was permitted only by myself, my Deputy Counsel, the Director of the Security Office and, on rare occasions, associate White House counsel who were assigned by me or my deputy to handle a specific matter. We did not let others in the White House read the files, and we did not share the contents of the files with anyone who did not have a real need to know the information therein. For example, if the report was prepared for a nominee requiring Senate confirmation, only the Chair and ranking minority member of the relevant committee would review the report. Not even President Bush read the contents of these files.

We also employed procedures to ensure that the files were maintained securely. The background reports were maintained by the Security Office in a locked vault, shared by the Security Office and the presidential archivists. Within the vault, the Security files were separated from the area used by the archivists. Even at the end of an administration, when all files are archived pursuant to the Presidential Records Act, the Security files are placed in boxes and sealed by Security Office personnel, stored separately from other archived documents, and remain sealed for a minimum of 20 years.

III. UPDATES

When a new administration arrives at the White House on inauguration day, virtually all of the prior administration's records have been removed for storage in the presidential archives. These archived records include the Security Office records of the background investigations performed for every person with access to the White House complex. Thus, the Security Office of the incoming administration arrives to find the shelves and the filing cabinets virtually empty. Even the files relating to nonpolitical, career White House employees, such as cooks, valets or chauffeurs, will have been archived. That is what we found in transition from the Reagan administration, and it is what President Clinton's people would have found in transition from the Bush administration.

Much has been said lately about the process of updating the Security Office files on those who work at, or whose work requires regular access to, the White House complex. These "updates" are required to be performed four years after an individual's original background investigation, and every four years thereafter. The purpose of the update is to inform the White House Counsel whether an individual has engaged in any improper conduct since the most recent background investigation. Nevertheless, updates are a lower priority than the initial background investigation, because by definition, a person requiring an update has already been cleared for access.

Thus, it is only after the process of obtaining background investigations for presidential appointees and White House staff is substantially complete that the Security Office turns to the process of updating background investigations for permanent employees. Every new administration has to start this process from scratch, because the files of the prior administration's Security Office will have been sent to that President's archives. The new Security Office will not even have so much as a list reflecting who the permanent White House employees are, or when their last background investigations were performed.

The Bush Administration's procedures for processing updates consisted of 4 basic steps: (1) the Security Office would obtain from the Secret Service and verify a current list of pass holders with access to the White House complex; (2) the Office would request from the FBI copies of the previous background reports concerning those on the list; (3) the head of the Office would review the prior reports to ascertain the date of the last background check, and to bring any derogatory information to the attention of the White House counsel; and (4) the Security Office would send a new Standard Form 86 to be completed by employees as they came due for an update investigation.

1. List of Current Pass Holders: The Security Office regularly obtains from the Secret Service a list of the current White House complex pass holders, including employees hired by

the new administration, employees who work at other agencies or outside contractors but require regular access to the White House, as well as permanent support staff. This list is voluminous at any given time, consisting of well over 1,000 names.

Upon receiving the Secret Service list, the Security Office reviews the names to confirm that the people listed have a current need for access. The reasons for confirmation are (1) the realization that the Secret Service list may not be 100% accurate, and (2) to avoid the waste of time involved in processing update paperwork for someone who no longer needs access to the White House. During the Bush Administration, the Security Office performed this confirmation through a variety of informal means. In some instances, the official reviewing the list simply had personal knowledge that a person listed was a known current employee. In other instances, names on the list were cross-checked with the White House directory, lists obtained from the White House personnel office, or different offices within the White House.

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