Case Number: 2006-1066-F.

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the Clinton Presidential Library Staff.

Folder Title:				
FBI - House [6]				
Staff Office-Individual:				
Counsel's Office-Sherburne, Jane				
Original OA/ID Number:				
CF 396				
Row:	Section:	Shelf:	Position:	Stack:
21	2	10	2	V

DAN BURTON
8TH DISTRICT, INDIANA

COMMITTEES:
INTERNATIONAL RELATIONS
SUBCOMMITTEE:
WESTERN HEMISPHERE
CHAIRMAN

GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE:
CIVIL SERVICE

Congress of the United States
House of Representatives
Washington, DC 20515-1406

WASHINGTON OFFICE:
2411 RAYBURN BUILDING
WASHINGTON, DC 20515-1406
TELEPHONE: (202) 225-2276

DISTRICT OFFICES:
8900 KEYSTONE AT THE CROSSING
SUITE 1050
INDIANAPOLIS, IN 46240
TELEPHONE: (317) 848-0201
TOLL-FREE: (800) 382-6020

435 EAST MAIN STREET
SUITE J-3
GREENWOOD, IN 46142
TELEPHONE: (317) 882-3640
TOLL-FREE: (800) 678-3642

June 21, 1996

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. President:

As a result of the recent revelations concerning the White House's acquisition of former employees' FBI files, Congress and the American public need to know if the White House also requested the IRS or any other agency to provide information from these individuals' tax records. Toward this end, I request your responses to the following specific questions.

Did the White House request information from the IRS on Mr. Billy Dale or any of the other former White House Travel Office employees, or on any other White House employees who served in previous administrations? Did the White House obtain personal tax information on Mr. Dale or on anyone else from any source, including the IRS, the FBI, or another agency?

Did the IRS or any other agency disclose any tax information subject to the Privacy Act to the White House, in response to a White House request or otherwise? If so, under what authority was the information provided, and who on the White House staff made this request? Please provide a list of all people, if any, whose personal tax records were provided to the White House from any source.

It is my understanding that other Federal agencies are, by law, expressly forbidden access to individual tax records without the written consent of the taxpayer, with an exception for criminal investigations by the Justice Department. Please advise if the White House is also exempt from this law.

As you know, the Government Reform and Oversight Committee is currently holding hearings on this issue, and I would request an immediate reply with answers to the above questions.

Sincerely,

Dan Burton
Member of Congress

DB:jts

DEBEVOISE & PLIMPTON

875 THIRD AVENUE
NEW YORK, NY 10022
(212) 909-6000

TELECOPIER: (212) 909-6836

555 13TH STREET, N.W.
WASHINGTON, DC 20004
TELEPHONE: (202) 383-8000
TELECOPIER: (202) 383-8118

21 AVENUE GEORGE V
75008 PARIS
TELEPHONE: (33-1) 40 73 12 12
TELECOPIER: (33-1) 47 20 50 82

13/F ENTERTAINMENT BUILDING
30 QUEEN'S ROAD CENTRAL
HONG KONG
TELEPHONE: (852) 2810 7918
TELECOPIER: (852) 2810 9828

1 CREED COURT, 5 LUDGATE HILL
LONDON EC4M 7 AA
TELEPHONE: (44-171) 329 0779
TELECOPIER: (44-171) 329 0860

1066 BUDAPEST
RÉVAY KÖZ 2 III/2
TELEPHONE: (36-1) 131 0845
TELECOPIER: (36-1) 132 7995

July 26, 1996

By Facsimile & U.S. Mail

The Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform & Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Clinger:

I write on behalf of Christopher D. Cerf, about whom I was contacted earlier today by Ms. Laurie Taylor of your staff. This is to confirm that Mr. Cerf waives his right to be served with a subpoena and agrees to appear voluntarily before the Committee for a deposition on a mutually agreeable date in August.

If you have any questions, please feel free to contact me at 212-909-6495.

Sincerely,

Bruce Yannett

Bruce E. Yannett

2408 Rayburn House Office Building
Washington, DC 20515-0529
(202) 225-3976

District Office:
8436 West 3d Street
Suite 600
Los Angeles, CA 90048-4183
(213) 651-1040

Committees:
Commerce
Government Reform and Oversight

Philip M. Schiliro
Administrative Assistant

Congress of the United States
House of Representatives
Washington, DC 20515-0529

HENRY A. WAXMAN
29th District, California

July 26, 1996

The Honorable William Clinger, Jr.
Chairman
Committee On Government Reform and Oversight
2172 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing about the Special Order you held on the House floor last night, in which you released information from Craig Livingstone's FBI file.

During your Special Order you said that former FBI agent Dennis Sculimbrene reported that Bernard Nussbaum and William H. Kennedy, III told him that the First Lady Hillary Rodham Clinton recommended Craig Livingstone for his job because she knew his mother. Prior to last night, at a committee hearing on June 26, 1996, Republican members repeatedly asked questions of the witnesses about a relationship between Hillary Rodham Clinton and Mr. Livingstone and his family -- although it was unclear at that time what the factual basis for those questions were.

As you know, Mrs. Clinton, Mr. Nussbaum, Mr. Kennedy, Mr. Livingstone, and Mr. Livingstone's mother, Gloria Livingstone, have all provided statements that Mr. Sculimbrene's account is untrue.

In a conversation between our staffs last night, your staff conceded that you have no tangible evidence that Mrs. Clinton and Mrs. Livingstone have ever met. In addition, and most surprisingly, your staff conceded that despite last night's charges you have made no attempts during the course of your long investigation to obtain any direct evidence from Gloria Livingstone about any relationship she might have with Mrs. Clinton. I understand, for example, that you and your staff have not even interviewed Mrs. Livingstone, that you have not asked your staff to obtain any relevant information to support the claim of a relationship between her and Mrs. Clinton, and that you have made no effort to discover how and under what circumstances Mrs. Clinton and Mrs. Livingstone might have first met and what subsequent contacts they might have had.

In addition, I object strongly to the refusal of my request yesterday to review the deposition Mr. Sculimbrene gave your staff last week. Early yesterday afternoon, your staff told my staff that the deposition was not available since it had not been concluded and was therefore not yet printed. Later in the day, however, indeed minutes before you began your Special Order, your staff called the Minority staff of the Government Reform and Oversight Committee from the House floor to indicate that he had been in error earlier and that a printed deposition was available.

I now understand that even though a printed copy is available to the Majority it is not being shared with Congressional Democrats or the public.

I am very troubled by this procedure. The allegations you raised last night, which have been denied by everyone with first-hand knowledge, depend on the veracity and credibility of Mr. Sculimbrene. Until we have an opportunity to review his deposition, we cannot get to the core of this matter. In addition, I request that Mr. Sculimbrene be called to testify before the committee before any other hearings are held on this matter.

I request a copy of Mr. Sculimbrene's deposition and that it also be made immediately available to the public given the seriousness of your allegations. Finally, I request that you verify by 5:00 P.M. today that you have no direct evidence of a relationship between Mrs. Clinton and Mrs. Livingstone and that you have made no attempts to acquire such information.

Sincerely,

Henry A. Waxman

HENRY A. WAXMAN
Member of Congress

DAN BURTON
6TH DISTRICT, INDIANA

COMMITTEES:
INTERNATIONAL RELATIONS

SUBCOMMITTEE:
WESTERN HEMISPHERE
CHAIRMAN

GOVERNMENT REFORM AND OVERSIGHT

SUBCOMMITTEE:
CIVIL SERVICE

Congress of the United States
House of Representatives
Washington, DC 20515-1406

WASHINGTON OFFICE:
2411 RAYBURN BUILDING
WASHINGTON, DC 20515-1406
TELEPHONE: (202) 225-2276

DISTRICT OFFICES:
8900 KEYSTONE AT THE CROSSING
SUITE 1050
INDIANAPOLIS, IN 46240
TELEPHONE: (317) 848-0201
TOLL-FREE: (800) 382-6020

435 EAST MAIN STREET
SUITE J-3
GREENWOOD, IN 46142
TELEPHONE: (317) 882-
TOLL-FREE: (800) 678-3642

July 26, 1996

Ms. Jane C. Sherburne
Special Counsel To The President
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Ms. Sherburne:

I am writing to follow up on your response of July 9, 1996, to my letter of June 21, 1996, to President Clinton. In my June 21, 1996, letter to the President, I asked if the White House obtained tax information from the Internal Revenue Service on any of the former employees whose FBI files were improperly requested. In your response, you stated that "we are not aware of any effort to obtain improperly personal tax information from the IRS."

As one who is deeply concerned about the potential serious consequences of the unauthorized release of IRS information, I do not believe that "we are not aware" sufficiently answers the questions that I raised in my June 21, 1996, letter. I would like categorical "yes" or "no" answers to the above question and to the other questions I asked in that letter.

Enclosed are copies of my June 21, 1996, letter, and your July 9, 1996, letter.

Since the Government Reform and Oversight Committee is continuing its investigation of this issue, I would appreciate an immediate reply with answers to my questions.

Sincerely,

Dan Burton

Dan Burton
Member of Congress

DB:jts
Enclosure

THE WHITE HOUSE

WASHINGTON

July 9, 1996

BY TELECOPY

The Honorable Dan Burton
2411 Rayburn House Office Building
U. S. House of Representatives
Washington, D.C. 20515

Dear Representative Burton:

This letter responds to your letter to the President received at the White House on June 25, 1996.

Your letter inquires as to whether IRS information was sought for certain former White House employees whose FBI files were mistakenly requested. We are not aware of any effort to obtain improperly personal tax information from the IRS. Moreover, although the White House receives certain tax information as part of the background investigation into new employees and employees undergoing a reinvestigation, the IRS will not provide such information unless it has a current tax check waiver, which is only valid for 60 days after it is signed by the employee. A copy of the tax check waiver form is attached for your information.

The White House is cooperating fully with the investigation of the Office of the Independent Counsel into the FBI files matter. As a result, we are not in a position to answer many of your questions because relevant records are not accessible. However, enclosed is a letter sent by Howard M. Shapiro, General Counsel to the FBI, to Senator Hatch which addresses many of your inquiries.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosures
cc: Hon. Cardiss Collins

TAX CHECK WAIVER

I am signing this waiver to permit the Internal Revenue Service to release information about me which would otherwise be confidential. This information will be used in connection with my appointment or employment by the United States Government. This waiver is made pursuant to #26 U.S.C. 6013(c).

I request that the Internal Revenue Service send the information to: President Clinton and the Office of the Counsel to the President, acting on behalf of the President.

The information I wish released is:

1. Have I failed to file any Federal income tax return which was required to be filed for any of the last three years?

If this waiver is received by the Internal Revenue Service before July 1, the "last three fiscal years" shall mean the latest three years for which information is available, since the return for the immediate last year may not yet have been processed.

2. Were any of these returns filed more than 45 days after the due date for filing (determined with regard to any extension of time for filing)?

3. Have I failed to pay any tax, penalty, or interest during the last three years within 45 days of the date on which the Internal Revenue Service gave notice of the amount due and demanded payments?

4. Has any penalty for negligence under section 6653(a) of the Internal Revenue Code been assessed against me this year or during the last three years?

5. Am I or have I ever been under investigation by the Internal Revenue Service for possible criminal offenses, and what were the results of such investigation(s)?

6. Has any civil penalty for fraud been assessed against me?

If the information which is to be released includes a "YES" answer to any of the above six questions, I authorize the Internal Revenue Service to release any information relative to that question.

THE WHITE HOUSE

WASHINGTON

To help the Internal Revenue Service find my tax records, I am voluntarily giving the following information:

MY NAME: ______________________ MY S.S.#: ______________

PHONE NUMBER(S), HOME: ______________ WORK: ____________

I. IF MARRIED AND FILED A JOINT RETURN:

HUSBAND/WIFE NAME: ______________________________

HUSBAND/WIFE SS#: ______________________________

II. CURRENT ADDRESS: ______________________________

____

____

III. NAMES AND ADDRESSES SHOWN ON RETURNS FOR THE LAST THREE FISCAL YEARS (IF DIFFERENT FROM ABOVE).

YEAR	NAME	ADDRESSES

DATE: ______________________
(WAIVER INVALID UNLESS RECEIVED BY IRS WITHIN 60 DAYS OF THIS DATE)

____
(SIGNATURE OF TAXPAYER AUTHORIZING THE THE DISCLOSURE OF RETURN INFORMATION)

Before signing, please be sure that you have reviewed the terms of this agreement listed on the reverse side.

JC

U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

June 25, 1996

Honorable Orrin G. Hatch
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C.

Dear Mr. Chairman:

I would like to thank you for asking me to testify before the Committee last week concerning my report on "The Dissemination of FBI File Information to the White House." This was important testimony for the FBI and I was pleased to have the opportunity to describe the reforms the FBI has made.

One issue that arose at the hearing was whether the FBI collects and disseminates "taxpayer" information obtained from the Internal Revenue Service (IRS) as part of the background investigation process. I want to assure you that, consistent with federal law, the FBI does not request, receive or disseminate such information. Further, based on review of the contents of the 406 folders returned to the FBI by the White House, no taxpayer information was disseminated by the FBI to the White House in response to the requests at issue. (The 407th folder remains in the possession of the Independent Counsel and was not reviewed.)

With the 1976 amendments to Title 26, U.S. Code, § 6103, which became effective January 1, 1977, tax returns and return information are afforded substantial privacy protections and are no longer subject to disclosure except in limited situations. I have been advised that since enactment of those amendments, the FBI does not request or receive any information from the IRS as part of the background investigation process. Prior to the amendments, the IRS would only advise if an individual's taxes were current or delinquent and, if delinquent, the years and dollars amount of any delinquencies. That

Honorable Orrin G. Hatch

information was included in the background summary reports prepared prior to 1977. I note that anything acquired lawfully prior to the 1976 amendments may still be disseminated in accordance with the previous statutory authority without violating the law. 26 C.F.R. § 301.6103(a)-1.

When the White House recently returned to the FBI the 406 folders containing the FBI background summaries, two of the folders did contain "Tax Check Reports" from the IRS. The documents in question are memoranda from the Director of the Office of Disclosure, IRS, to William H. Kennedy, III, Associate Counsel to the President. 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. Both reports are for years 1989-1991, show no failure to pay taxes by the individuals named in the reports, and indicate there were no criminal tax investigations or civil penalties for those years. Executed waiver forms from the individuals named are attached to each IRS report.

This information has not been further disseminated by the FBI. Further, I have ordered that all the copies be sealed and segregated from the file. I will discuss with the Independent Counsel how he wants these documents to be handled but, in any event, the FBI will make no use of them whatsoever.

Finally, among the material returned by the White House was a miscellaneous box of information. One folder in this box was identified as "IRS Returned March-April 1993." This folder contains five sheets of paper, each entitled "IRS Reports Returned." Each of these sheets of paper bears the names of numerous individuals and notations as to whether reports are complete or incomplete. It did not contain reports or any information provided by the IRS. Again, this material was not part of any file maintained by the FBI, but was among the papers surrendered to the FBI by the White House on June 6, 1996.

I hope the above information is helpful to you in your examination of this matter. Should you or your staff like a further briefing beyond what the FBI already provided, I would be happy to provide it.

Sincerely yours,

Howard M. Shapiro

Howard M. Shapiro
General Counsel

DAN BURTON
6th District, Indiana

COMMITTEES:
INTERNATIONAL RELATIONS
SUBCOMMITTEE:
WESTERN HEMISPHERE
CHAIRMAN

GOVERNMENT REFORM AND OVERSIGHT
SUBCOMMITTEE:
CIVIL SERVICE

Congress of the United States
House of Representatives
Washington, DC 20515-1406

WASHINGTON OFFICE:
2411 Rayburn Building
Washington, DC 20515-1406
Telephone: (202) 225-2276

DISTRICT OFFICES:
8900 Keystone at the Crossing
Suite 1050
Indianapolis, IN 46240
Telephone: (317) 848-0201
Toll-Free: (800) 382

435 East Main Street
Suite J-3
Greenwood, IN 46142
Telephone: (317) 882-1640
Toll-Free: (800) 878-3842

June 21, 1996

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. President:

As a result of the recent revelations concerning the White House's acquisition of former employees' FBI files, Congress and the American public need to know if the White House also requested the IRS or any other agency to provide information from these individuals' tax records. Toward this end, I request your responses to the following specific questions.

Did the White House request information from the IRS on Mr. Billy Dale or any of the other former White House Travel Office employees, or on any other White House employees who served in previous administrations? Did the White House obtain personal tax information on Mr. Dale or on anyone else from any source, including the IRS, the FBI, or another agency?

Did the IRS or any other agency disclose any tax information subject to the Privacy Act to the White House, in response to a White House request or otherwise? If so, under what authority was the information provided, and who on the White House staff made this request? Please provide a list of all people, if any, whose personal tax records were provided to the White House from any source.

It is my understanding that other Federal agencies are, by law, expressly forbidden access to individual tax records without the written consent of the taxpayer, with an exception for criminal investigations by the Justice Department. Please advise if the White House is also exempt from this law.

As you know, the Government Reform and Oversight Committee is currently holding hearings on this issue, and I would request an immediate reply with answers to the above questions.

Sincerely,

Dan Burton

Dan Burton
Member of Congress

DB:jts

White House Spin Cycle

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

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

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

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

Prepared by the Committee on Government Reform and Oversight Majority Staff

THE WHITE HOUSE

WASHINGTON

July 25, 1996

BY TELECOPY

Louis J. Freeh
Director
Federal Bureau of Investigation

Dear Director Freeh:

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

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

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

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

It is equally troubling that a Member of Congress can publicly reveal confidential FBI information, whether for partisan purposes or otherwise. It should not escape notice that this is done at a time when Members of Congress have expressed worry that employees of the executive branch might have sought out confidential FBI information about certain individuals and planned to somehow use it publicly. While that charge has never been established against anyone in the executive branch, we now witness the same objectionable behavior by the very people who professed to be the guardians of privacy.

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

Best regards,

Sincerely,

Jack Quinn

Jack Quinn
Counsel to the President

Attachment

Name	Date
Shelley Peterson	9/22/99

Counsel

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

File / FBI/House

July 22, 1996

Stephen Ryan, Esq.
Brand, Lowell & Ryan
923 15th Street N.W.
Washington, DC 20005

Re: Charles C. Easley

Dear Mr. Ryan:

As you are aware, the Committee on Government Reform and Oversight is conducting an investigation with respect to the White House Travel Office matter. This investigation is being conducted pursuant to the Committee's authority under Rules X and XI of the House of Representatives.

House Resolution 369 passed by the House of Representatives on March 7, 1996, grants the Committee special authorities to conduct staff depositions and submit interrogatories. A copy of the Resolution and Committee Rule 19 adopted to implement the Resolution is attached.

Pursuant to this Resolution, we are requesting a deposition of your client on July 26, 1996. The Committee is trying to complete these depositions in an expeditious manner and is working within a limited timeframe. Accordingly, absent a conflict which cannot be changed, we would appreciate your working with this schedule. As you will note in the attached rules, the minority counsel is accorded full participation in these depositions.

Your cooperation in this matter is greatly appreciated. If you have any questions, please call Barbara Comstock or Laurie Taylor at (202) 225-5074.

Sincerely,

William F. Clinger, Jr.

William F. Clinger, Jr.
Chairman

cc: Representative Cardiss Collins

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

July 22, 1996

VIA FACSIMILE: 202-745-2505

William F. Coffield
Sharp & Lankford
1785 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Re: William H. Kennedy, III

Dear Mr. Coffield:

Under the authority of Article I of the Constitution of the United States and Rules X and XI of the Rules of the House of Representatives, the Committee on Government Reform and Oversight has been conducting an investigation into the White House Travel Office matter and the release by the Federal Bureau of Investigation (FBI) of sensitive background files. Under Committee Rule 19, the Government Reform and Oversight Committee has been granted the authority to issue interrogatories.

On June 18, 1996, your client, Mr. William Kennedy, testified before the Committee on his involvement in the supervision of the White House Office of Personnel Security. At that time he cited the Privacy Act, 5 U.S.C. 552a (1994), as a testimonial bar, preventing his response to a pertinent question posed to him by a Member of the Committee. Following requests by Members of the Committee, I agreed to consult with proper authorities to determine whether a witness before a congressional committee can avoid answering otherwise legitimate questions because he is legally precluded by the Privacy Act.

The House Parliamentarian has informed me that his office is not in a position to rule on the use of a Federal statute as a bar to responding to a legitimate congressional inquiry. I have, therefore, sought a legal opinion from the American Law Division of the Congressional Research Service (CRS) which is attached for your review. As you will read, senior CRS attorney Morton Rosenburg has concluded that for numerous reasons, the Privacy Act does not act as a defense in these circumstances. I agree with Mr. Rosenburg's analysis and therefore direct that your client respond under oath to the attached written questions, which will be included in the Committee's record. Our need for the Committee to recall your client for a sworn deposition will depend upon

William F. Coffield
July 22, 1996
Page Two

the degree of candor with which your client responds to these questions.

Please instruct your client to respond to these questions, under oath, and return them to me no later than 5:00 p.m. on Friday, August 2, 1996. Your cooperation in this matter is appreciated.

Sincerely,

William F. Clinger

William F. Clinger, Jr.
Chairman

Attachment

cc: Hon. Cardiss Collins

QUESTIONS SUBMITTED TO WILLIAM KENNEDY

1. (a) Have you reviewed the White House's or the Federal Bureau of Investigation background investigation file of David Craig Livingstone? If yes, when did you review this file? Did you ever receive any updates of Mr. Livingstone's background investigation file? Did you discuss the contents of this file with any other person?

   (b) Did you ever tell anyone that Mr. Livingstone was "a done deal" -- or any similar words -- or that you could not change his appointment as the Director of the White House Office of Personnel Security because it was the First Lady's wishes?

2. (a) What concerns or derogatory information, if any, about Mr. Livingstone's FBI background investigation were brought to your attention by either the Secret Service or the FBI?

   (b) Were you aware of any derogatory information contained in Mr. Livingstone's FBI background investigation at the time he was officially hired as Director of Personnel Security at the White House? If yes, please explain what information you knew at that time?

3. Did you or did you not know about Mr. Livingstone's admitted history of drug use? If you did know, why did you allow him to assume a sensitive position with the White House or continue to hold that post?

4. (a) What communications have you had with any individuals regarding the background and qualifications of David Craig Livingstone from January 1, 1993, through the present? Name the individuals involved in any communications, the approximate time which the communication occurred, and the nature of the communication.

   (b) In your appearance before the Committee, you stated that following a discussion with Mr. Foster, you discussed Mr. Livingstone's background with Ms. Varney. You further stated, "Those issues were resolved on a basis that led to Mr. Livingstone's retention." What issues were discussed with Mr. Foster and Ms. Varney? What steps were taken during your discussion with Ms. Varney to reach the resolution which led to Mr. Livingstone's retention? How and why were those steps decided upon as opposed to any alternative courses?

5. Did any individual, at any time, instruct or encourage or otherwise influence you to employ or continue the employment of David Craig Livingstone at the White House?

6. Do you have any knowledge of who recommended Mr. Livingstone to be employed at the White House in February, 1993?

7. In testimony before the Committee in an open hearing, agents of the U.S. Secret Service have testified that they discussed with you their concerns over recent past drug use by White House staff. One of the solutions was the imposition of random drug testing. Who, if anyone, on the White House staff, including the President and First Lady and the Vice President, have you discussed this matter with? Did anyone instruct you to develop an arrangement with the Secret Service which would allow the issuance of a permanent pass to White House staff with former drug usage?

Scope

8. (a) Have you reviewed the Federal Bureau of Investigation background file of Anthony Marceca? If yes, when did you review this file? Did you ever receive any updates on Mr. Marceca's background investigation file? If yes, when?

   (b) Have you ever reviewed the background investigation report on Mr. Marceca completed for his employment with the U.S. Army? If yes, when?

9. ✓ Were you aware of any derogatory information contained in either Mr. Marceca's FBI or Army background investigation file at any time while he was detailed to the White House, as well as before or after his detail?

10. Are you aware that Mr. Marceca was interviewed for a permanent position within the Clinton Administration? If yes, what positions was Mr. Marceca interviewing for at the White House and with whom did he have interviews or discussions concerning a permanent position?

11. Did any individual, at any time, instruct, encourage or otherwise influence you to employ or retain the employment of Anthony Marceca at the White House?

12. ✓ Please respond to the question asked by Congressman David McIntosh:

"Mr. Kennedy, did you or did you not know about Mr. Livingstone's alleged history of drug use? And if you did know about it, why did you allow him to assume a position with the security clearance in the white House in such a sensitive post?"

(Same as 3)

CRS

Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

July 19, 1996

TO : Honorable Bill Clinger, Chairman
House Government Reform and Oversight Committee
Attn: Kevin Sabo

FROM : American Law Division

SUBJECT : Efficacy of a Witness Claim that the Privacy Act is a Bar to Responding to Questions Posed by a Committee if the Answer Would Reflect Personal Matters in an FBI File

During an investigative hearing held by your Committee on June 26, 1996, inquiring into the matter of the White House's acquisition of copies of confidential FBI background checks and security clearances, including those of former White House officials and employees, a witness, Mr. William Kennedy, a former associate counsel in the White House Counsel's Office, refused several times to answer questions put to him by Members which, he claimed, would reveal matters contained in a FBI background file on David Craig Livingstone, the former Director of White House Personnel Security, who had been under his direct supervision. Mr. Kennedy claimed each time that disclosure of such matters would violate the Privacy Act, 5 U.S.C. 552a(1994), and that he was barred from testifying in a way that would reveal the protected information. See unpublished transcript of hearing on "Security of FBI Background Files" at pages 72, 242, 253 and 331-332, dated June 26, 1996.

At the time of his last assertion of Privacy Act protection, you ruled that the statute was not a legitimate ground to refuse to answer, advised him that refusal to respond could subject him to a citation for contempt of Congress, and directed him to answer, explaining the relevance of the line of inquiry to the subject matter of the hearing, and the reasons for your ruling. Your ruling was appealed and a vote of the Committee was called but was suspended in order to obtain a ruling from the House Parliamentarian. Pertinent excerpts from the proceeding follow:

> Mr. MCINTOSH. Thank you, Mr. Chairman.
>
> Mr. Kennedy, did you or did you not know about Mr. Livingstone's alleged history of drug

use? And if you did know about it, why did you allow him to assume a position with the security clearance in the White House in such a sensitive post?

Mr. KENNEDY. Mr. Chairman, I am going to address you instead of the Congressman. You know, my reluctance to answer these questions stems from two areas, one of which is the fact that I believe the Privacy Act governs this and I am--I think I am being asked a specific question.

Mr. CLINGER. You are being asked about a question that Mr. Livingstone has already indicated that he, in fact, had engaged in recreational use of drugs. So I think that the--raising the Privacy Act as a reason for not answering is not appropriate.

Mr. KENNEDY. The second question is, you are asking me about legal work I performed within the office of counsel to the President, and I have no guidance on that.

Mr. CLINGER. Mr. Kennedy, I would remind you that you are under subpoena before this committee. You have been presented with a question which you have indicated that you will not respond to. I have ruled that the Privacy Act, I don't think, is a legitimate bar to that.

Mr. WAXMAN. Mr. Chairman--

Mr. CLINGER. I would urge you to answer the question because you potentially could be in contempt of this committee.

Mr. WAXMAN. Mr. Chairman, if I might be recognized on this issue?

It seems to me if you are going to ask a witness to violate the statute of the Privacy Act, it ought to done in executive session. It ought not to be sprung on a witness at this moment, and on behalf of our side and some of your Members.

Mr. MCINTOSH. Mr. Chairman, let me point out that this was the fifth time this question has been asked.

Mr. WAXMAN. Mr. Chairman, I am making a point.

Mr. CLINGER. One at a time.

Mr. WAXMAN. I think we ought to have a further inquiry as to what the proper procedures and precedent have been in the past when something of this sensitive a nature is being brought forth. I think we owe it to everybody involved.

Mr. CLINGER. I would respectfully say to the gentleman that it is my opinion that Mr. Livingstone has, in fact, waived his protection under the Privacy Act with regard to--the very limited regard to the fact that he has admitted to occasional use of drugs, not drug abuse, not a drug problem but occasional use of drugs.

Mr. WAXMAN. May I ask whether this is relevant?

Mr. CLINGER. The question now to Mr. Kennedy was, knowing that, or did he know that, as he aware of that fact, and if he was aware of that fact, did it raise a question in his mind as to whether this was an individual who should, in fact, have the responsibility of reviewing very sensitive files? And I would suggest to Mr. Kennedy that that is a question that you can answer.

Mr. MCINTOSH. Mr. Chairman, I will point out for the record this is the sixth time now that you have asked it--that this question has been asked today.

Mr. KENNEDY. Mr. Chairman, in a nutshell, Mr. Livingstone went through the normal review process that basically all people being considered for a hard pass in the White House had. There were issues in Mr. Livingstone's background which were reviewed by me. I discussed them with Mr. Foster. I was directed by Mr. Foster to go to Ms. Varney. Those issues were resolved on a basis that led to Mr. Livingstone's retention.

Mr. CLINGER. But in reviewing that file, you were aware of the fact that Mr. Livingstone had engaged in occasional drug use; is that correct? Since Mr. Livingstone has already indicated that that was the case.

Mr. KENNEDY. Mr. Chairman, could I consult with my counsel for a minute, please.

Mr. WAXMAN. Point of order, Mr. Chairman?

Mr. CLINGER. The gentleman will state it.

Mr. WAXMAN. I would like to inquire of the Chair his understanding of the rules and this particular privacy statute, whether he can require witnesses to disclose to us anything that is in anybody else's file that he has seen? Because as I understand the Chairman's ruling, we would then be permitted on our time to ask him about anybody else's file, to disclose anybody's information about them that is private.

Mr. CLINGER. No, that is not correct. I will tell the gentleman that in this instance the ruling was based on the fact that Mr. Livingstone has testified in this hearing to occasional drug use, and that, in my mind, would not open up Pandora's box.

* * *

Mr. WAXMAN. Point of order, Mr. Chairman. Would this witness, in answering your question, violate the privacy statute law? And are you insisting that he violate a law in order to give you some irrelevant but of information? Is that where we are, Mr. Chairman?

Mr. CLINGER. Where we are is that I have indicated that because of Mr. Livingstone's admission, I guess, that there was, in fact, some drug use, that that therefore would represent a waiver of rights under the Privacy Act with regard to that very, very specific question.

Mr. WAXMAN. Mr. --

Mr. CLINGER. Now, if Mr. Kennedy does not choose to answer that question, we will take under advisement whether or not that constitutes contempt and at the next hearing on this matter we will consider that.

You know, I am not--I don't mean to pose any threats here but I do say that I think I have indicated that my ruling, subject to being reversed at some stage of the game, but my ruling is that the witness must answer the question.

Mr. WAXMAN. Mr. Chairman, I will seek to appeal your ruling to the Parliamentarian because I cannot believe--

Mr. CLINGER. You have every right to do that.

Mr. WAXMAN. I do not believe that you can insist that a witness violate the law and give us confidential information.

* * *

Mr. CLINGER. I am going to ask the clerk to suspend the reading of the roll.

In view of the contentiousness of this issue and the concerns that have been raised on the Minority side, I have agreed to refer this matter to the Parliamentarian and at that point we will get a ruling from the Parliamentarian as to the appropriateness of the question. But I can assure you because of this and other matters that have arisen, we will be visiting with this panel again, at which time it will be anticipated that that will be a question that will be in order at that time, unless the Parliamentarian rules against us. So given that understanding, we would now move to--

Mr. MICA. Mr. Chairman, I have a unanimous consent request.

Mr. CLINGER. The gentleman will state it.

Mr. MICA. --to admit these documents, if there is no problem--

Mr. CLINGER. I believe these documents have been shown to the Minority.

Mr. WAXMAN. I am sorry. I am going to object because we haven't had a chance to check it out. You can put it in the next hearing or the one after that or the one after that because this is certainly something that is worthy of at least 10 or 12 more hearings.

Mr. CLINGER. I thank the gentleman for his gentle sarcasm.

* * *

Mr. EHRLICH. Parliamentary inquiry. Just for the record, would the Chair state the precise issue and frame the issue that the Parliamentarian will rule on?

Mr. CLINGER. Yes, I would be delighted to do that.

The question was asked of Mr. Kennedy whether he knew of any drug use on behalf of Mr. Livingstone, and if he did know that, did it enter into his decision as to whether or not to hire Mr. Livingstone for this sensitive position. The issue is, would it violate Mr. Livingstone's rights to privacy under the Privacy Act if, in fact, Mr. Kennedy were to answer that question.

My ruling was that it would not so violate his privilege under the Privacy Act because Mr. Livingstone himself had indicated that, and Mr. Livingstone's deposition has been made a part of the record.

That being the case, I felt that Mr. Kennedy would be required, being under subpoena, to respond to the question propounded to him by you, or by whoever, and that appealing--Mr. Waxman then appealed the ruling of the Chair. I have agreed that we will not submit that to a vote at this hearing; that we will confer with the Parliamentarian as to his ruling and we will revisit this issue at the next hearing.

Transcript at pp. 331-335, 336, 340-342.

Prior to the hearing, on June 14, 1996, Mr. Livingstone was deposed and testified to the fact that he had discussed with Mr. Kennedy various matters contained in his FBI background report, which Mr. Kennedy had at that time. These included Mr. Livingstone's prior drug use and problems he had in previous employments.

Q Do you know -- in March of 1993, did you receive a permanent pass?

A No, I don't believe I got my permanent pass until October of 1993, or thereabouts.

Q So in March of 1993 you only had a temporary pass?

A Yes, ma'am.

Q Do you know who participated in your vetting?

A. Mr. Kennedy, Bill Kennedy.

Q Do you recall if Mr. Kennedy had any problems with any matters in your background?

A Yes, he did discuss some issues with me.

Q Could you describe what those were?

A My drug use, and he basically gave me what he called a "Come to Jesus" opportunity to talk to him about any issues in my life that he should be aware of. And I related to him some situations in my life that I considered less than favorable and I wanted him to be aware of them.

Q Could you describe what those were?

A Yes. When I was in college I worked at the Sears store. I think this is in 1981 or '92. I worked as a sales clerk and I was brought in by the supervisor to discuss, as I recall it, an improper exchange of an item which I had purchased. I believe the issue was I was supposed to go to the supervisor since I had purchased it myself, and the discussion was they didn't think that was -- I had followed proper procedures, and I was let go.

Q Any other matters?

> A I also told them I was at another job where I was contract employee where I was asked about my education. The woman I had worked for had thought I had gone to a particular school, and because I was engaged in conversation with her daughter and someone who worked at the company, she questioned me about it and checked my file and discovered I had not gone to that school.
>
> I did not tell her I went to the school to get employment there, nor did I put that on an application with her, but she thought the fact I would bring it up in a conversation like that was incredible, and did not renew my contract. When I discussed that issue with her prior to my employment at the White House, she asked me if I learned my lesson and if I had misrepresented my education to anyone else since then, and I said, no. And she said she considered the matter resolved.
>
> And from what I understand from Mr. Kennedy, he said that they had mentioned it in the FBI, but – or someone had mentioned it in the FBI, considered I did good work and said it was an anomaly. And I wanted to be as forthright as I could with Mr. Kennedy about it, so I did talk to him about it before he hired me.
>
> Q You had mentioned your drug use to Mr. Kennedy, or he had talked to you before about it? I am sorry, which was it?
>
> A During the course of my FBI interview, the FBI investigator asked me about drug use and asked me if I had used drugs within the last 5 years, if I remember the question right. And I had said, no. And he said, you understand that the White House wants to know if you had ever used drugs? So I said the answer to that would be that I had used different types of drugs up until about 1985, as I recall answering the question.

The transcript of the deposition was made available to Members of the Committee and their staff prior to the June 26 hearing and was made put of the hearing record at the opening of the hearing. Transcript at pp. 12, 341, 342.

Mr. Kennedy was also deposed prior to the hearing (on June 18, 1996), and while indicating that he had had discussions with Livingstone about concerns he had about Livingstone's background, he was not pressed to discuss his conversations with Livingstone after his attorney raised a Privacy Act objection. Mr. Kennedy's deposition was also made put of the record at the beginning of the hearing. Transcript at p. 12.

Discussion

It is undisputed that your Committee has jurisdiction and authority under House Rules X and XI, over that matter under inquiry and that Mr. Kennedy was made aware of the pertinence and relevance of the question asked. Having been subpoenaed, Mr. Kennedy was properly before the Committee. He has not invoked any recognized constitutionally based testimonial privilege. Under these circumstances we believe it is likely that a reviewing court would hold that the Privacy Act is not a valid legal basis for refusing to answer the questions put to him by the Committee on the basis of one or more of the following rationale: (1) The Privacy Act specifically exempts Congress and its committees from its non-disclosure requirements. (2) The White House Counsel's Office is not subject to the non-disclosure requirements of the Privacy Act. (3) Since Mr. Livingstone's deposition testimony, which informed the Committee about the contents of his FBI background file, was before the Committee before Mr. Kennedy was asked to testify, Mr. Kennedy's testimony would not likely be deemed a prohibited disclosure under the Act. (4) Without regard to any consideration of consent or waiver, law enforcement officials would be authorized to disclose matters in Livingstone's background file for purposes of civil or criminal law enforcement. (5) The Privacy Act has not been recognized as an effective testimonial privilege before a congressional committee.

More particularly, the Privacy Act provides that "no agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would" fall under one of twelve exceptions to the general ban. 5 U.S.C. 552a(b). One of those exceptions permits disclosure "to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee". 5 U.S.C. 552a(b)(9). Thus it would not appear that anything in the Act itself would provide a basis for a witness to refuse to testify before a congressional committee.

Moreover, it would appear that the Privacy Act does not even cover the White House Counsel's Office. The Act applies to "agencies" and adopts the definition of "agency" utilized in the Freedom of Information Act (FOIA), 5 U.S.C. 552a(a)(1). FOIA, by its terms, specifically applies to the Executive Office of the President, 5 U.S.C. 552(f), but the legislative history of that 1974 amendment makes it clear that "agency" is not meant to encompass "the President's immediate personal staff or units in the Executive Office whose sole function is to advise and assist the President". H.R. Rept. No. 1380, 93d Cong., 2d Sess. 15 (1974). See also S.Rept. No. 1200, 93d Cong., 2d Sess. 15 (1974); and

Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971)(which announced the "sole function" test adopted in the legislative history of the 1974 amendment). Indeed, it has been specifically held that the Office of White House Counsel is not an "agency" for FOIA purposes. *National Security Archive v. Archivist of the United States*, 909 F.2d 541 (D.C. Cir. 1990). It seems likely that the Office would similarly not be deemed an "agency" for purposes of the Privacy Act. As a consequence, Kennedy's refusal to respond based on the Act appears still more tenuous.

Further, to the extent that Mr. Livingstone's statements in his deposition recounting his conversation with Kennedy about his background informed the Committee as to the content of his FBI file, those statements may have made it possible for a disclosure to be made to the Committee even without regard to the general prohibition on disclosures by an agency of covered records. The courts have generally held that the release of an otherwise protected record to an individual who is already familiar with its contents is not a prohibited disclosure: "[A] communication is not a 'disclosure' subject to the act, unless it imparts information to someone who does not already know it". *Reyes* v. *Drug Enforcement Administration*, 834 F.2d 1092, 1096 (1st Cir. 1987). See also *Quinn* v. *Stone*, 978 F.2d 126, 134 (3d Cir. 1992); *Kline* v. *Department of Health and Human Services*, 927 F.2d 522, 524, (10th Cir. 1991); *Hollis* v. *U.S. Department of the Army*, 856 F.2d 1541, 1545 (D.C. Cir. 19880; *Pellerin v. Veterans Administration*, 790 F.2d 1553, 1556 (11th Cir. 1986); *FDIC* v. *Rye*, 642 F.2d 833, 835 (5 Cir. Unit B 1981); and see *Pilon* v. *Department of Justice*, 73 F.3d 1111, 1127 n.10 (D.C. Cir. 1996)(noting "that the Privacy Act approves those disclosures that are 'required' under the Freedom of Information Act (FOIA), sec. 5 U.S.C. 552 a(b)(2), and that under various FOIA exemptions, prior publication is a factor to be considered in determining whether a document is properly to be released".). In the instant situation, Livingstone's deposition testimony appears to have fully informed the Committee about matter in his FBI file of interest to the Committee which he had discussed with Kennedy, so Kennedy arguably would not be revealing anything the Committee did not know. In fact, the question put to Kennedy was why he did not act in certain way upon learning of Livingstone's prior drug use and employment record, not what was in the file. Livingstone's deposition testimony indicates that he volunteered his personal background information to Kennedy, recounting what he had told the FBI interviewer. He had not seen his background report. Thus the question posed to Kennedy could have been answered without regard to what was in the FBI report but solely with reference to what Livingstone revealed to him in conversation.

Additionally, it may be observed that Mr. Livingstone's file might be disclosed, without his consent, for purposes of civil or criminal law enforcement. 5 U.S.C. 552 a(b)(7). Thus there should be no apparent concern that the Committee's disclosure would affect the viability of Livingstone's rights under the Act in any possible subsequent civil or criminal proceeding.

Finally, the Privacy Act is not an effective testimonial privilege before a congressional committee in any event. Like assertions of attorney-client and work product privilege, a claim that the Privacy Act provides a testimonial bar, even assuming the absence of a congressional exemption, would denigrate the constitutionally based investigatory authority of the legislative branch. As with common law privileges which are designed for, and properly confined to, resolution of conflicting claims of individual obligation in a civil or criminal proceeding, a "privacy" privilege is less compelling in an investigative setting where a legislative committee is not empowered to adjudicate the liberty or property interests of a witness. This is the import of those cases which have recognized that "only infrequently have witnesses...[in congressional hearings] been afforded procedural rights normally associated with an adjudicative proceeding." *Hannah* v. *Larche*, 363 U.S. 420, 425 (1960) (denying constitutional right to cross-examine witnesses called before the Civil Rights Commission); *United States* v. *Fort*, 443 F.2d 670 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 932 (1991) (rejecting contention that the constitutional right to cross-examine witnesses applied a congressional investigation). Your Committee has recently reiterated the established practice in both Houses that the acceptance of common law testimonial privileges rests in the sound discretion of a congressional committee. "Proceedings against John M. Quinn, David Watkins, and Matthew Moore (Pursuant to title 2, United States Code, Section 192 and 194)", H. Rept. 104-598, 104th Cong., 2d Sess. 43-54 (1996). Mr. Kennedy should also be aware that a claim of attorney-client privilege by him was rejected by the Senate Banking Committee in December 1995 on the basis of the same rationale. See "Refusal of William H. Kennedy, III, To Produce Notes Subpoenaed By The Special Committee to Investigate Whitewater Development Corporation and Related Matters," Sen. Rept. No. 104-191, 104th Cong., 1st Sess. 9-19 (1995).

In sum, then, it is concluded that Mr. Kennedy's refusal to answer the questions posed by your Committee is not likely to sustained by a court under the Privacy Act.

Morton Rosenberg

Morton Rosenberg
Specialist in American
Public Law

THE WHITE HOUSE

WASHINGTON

July 16, 1996

BY FACSIMILE

The Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform
and Oversight
2157 Rayburn House Office Building
U. S. House of Representatives
Washington, D.C. 20515

Dear Chairman Clinger:

This letter is in response to your letter of July 15, 1996 to Mr. Terry Good in which we understand you to request copies of all WAVES requests for appointments by Anthony Marceca at the White House from January 20, 1993 to the present. The information responsive to this request is currently in a room that we have secured at the request of the Office of the Independent Counsel. When we have access to the documents, we will provide a response.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

cc: Honorable Cardiss Collins

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

FACSIMILE TRANSMISSION

TO: Jane Sherburne

FROM: Barbara Comstock

DATE:

PHONE: 456-1213

There will be a total of 2 pages, including this page.

Comments: FYI

If there are any questions or problems regarding this transmission, please call the sender at (202) 225-5074.

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

July 15, 1996

Mr. Terry Good
Director, Office of
Records Management
The White House
Washington, D.C. 20500

Dear Mr. Good:

As you know, the Committee on Government Reform and Oversight is reviewing actions related to the obtaining of hundreds of FBI background files. As part of this review, please provide all WAVES requests for Anthony Marceca or "Tony" Marceca from January 20, 1993 to the present.

I would appreciate receipt of these records by 5p.m. Tuesday, July 16, 1996 at 6p.m. Thank you for your prompt attention to this matter.

Sincerely,

William F. Clinger, Jr.

William F. Clinger, Jr.
Chairman

cc: Rep. Cardiss Collins

THE WHITE HOUSE

WASHINGTON

July 14, 1996

BY FACSIMILE

The Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform
and Oversight
2157 Rayburn House Office Building
U. S. House of Representatives
Washington, D.C. 20515

Dear Chairman Clinger:

Following is the salary information requested in Paragraphs 3 and 12 of your letter of June 21, 1996:

Mari Anderson	2/15/93:	$24,000
	3/13/94:	$26,000
	4/24/94:	$30,000
Mary Childs		$25,694
Jane Dannenhauer		$70,254
Jonathan Denbo	9/19/95:	$22,500
	10/15/95:	$24,000
Nancy Gemmell		$51,364
Edward Hughes	4/12/94:	$21,000
	1/1/95:	$24,000
	9/11/95:	$30,000
Kari Johnson		$25,872
Craig Livingstone	2/8/93:	$45,000
	10/10/93:	$51,000
	1/8/95:	$57,500
	10/1/95:	$63,750
Anthony Marceca	detailee (salary not paid by White House)	

Lisa Wetzl	8/15/93:	$21,000
	4/24/94:	$22,500
	10/9/94:	$28,500

The salary history for William Kennedy is as follows:

2/10/93:	$98,000
12/5/93:	$110,000

We request that you treat this information as "Highly Confidential" in accordance with the protocols set forth in Ms. Williams August 9, 1995 letter to Mr. Larsen.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

cc: Honorable Cardiss Collins

THE WHITE HOUSE

WASHINGTON

July 14, 1996

BY TELECOPY

The Honorable Bill Archer
Chairman
Committee on Ways and Means
U. S. House of Representatives
Washington, D.C. 20515

Dear Chairman Archer

This letter responds in part to your letter of July 2, 1996 to Jack Quinn.

Your letter asks a number of both general and specific questions about the practice and procedures of the White House in gathering IRS information for individuals in the White House. Specifically, your letter inquires about the possibility that the White House requested tax information on those individuals whose FBI files were mistakenly requested. We are not aware of any effort to obtain improperly personal tax information from the IRS.

Moreover, although the White House receives certain tax information as part of the background investigation into new employees and employees undergoing a reinvestigation, the IRS will not provide such information unless it has a current tax check waiver, which is only valid for 60 days after it is signed by the employee. As you requested, a copy of the tax check waiver form is attached.

Since June 6, 1996, the White House has returned just over 400 FBI files to the FBI after determining they were mistakenly requested. As we no longer have these files, we are not in a position to answer many of your questions that require access to their contents. However, enclosed is a letter sent by Howard M. Shapiro, General Counsel to the FBI, to Senator Hatch which addresses many of your inquiries.

The White House is cooperating fully with the investigation of the Office of the Independent Counsel into the FBI files matter. The Independent Counsel has asked us to secure the relevant records and, as a result, they are not accessible to us for the purpose of responding to many of your questions.

To the extent that your questions concern current practices and procedures, we will provide you with more specific responses in the near future.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosures
cc: Hon. Sam M. Gibbons

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6348

July 2, 1996

John M. Quinn, Esquire
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Quinn:

Congressional hearings concerning the improper disclosure to the White House of over 700 Federal Bureau of Investigation (FBI) files on former White House employees and other individuals raise numerous questions on how the White House treats tax return information which it acquires in the course of background checks on individuals. The purpose of this letter is to gather information on what types of tax return information are sought by the White House and whether the White House follows appropriate safeguards with respect to such information.

Since the Committee on Ways and Means has jurisdiction over the revenue laws, it has a responsibility to exercise Congressional oversight in order to assure that the Internal Revenue Code is being properly observed. Accordingly, the Committee on Ways and Means is reviewing first, how the White House treats tax information which it acquires on individuals in the course of background checks; second, how the White House acted with respect to tax information related to the individuals whose 700+ FBI files were improperly requested by the White House; and third, the White House handling of tax information related to the seven persons in the White House Travel Office who were terminated on or about May 19, 1993.

By way of background, section 6103(b) of the Internal Revenue Code defines the "tax return information" of an individual which is protected as confidential. It is a very expansive definition. The privacy protections in section 6103 were enacted in 1976 as a response to the Watergate scandal, part of which involved attempts to misuse the Internal Revenue Service (IRS). If files containing tax return information are not handled in accordance with procedures designed to safeguard taxpayer privacy, then an unlawful disclosure of tax return information may occur. A violation of the section 6103 privacy protections may be punishable as a felony under section 7213 of the Internal Revenue Code, (IRC).

First, I ask that you help me understand how the White House treats tax return information by answering the following questions:

1. On what categories of individuals does the White House seek tax return information? For example, does it seek it on all White House employees, on all persons in the "E Pass" system, on all persons with a temporary pass, on all prospective appointees to positions in the executive or judicial branches? Does the White House seek the same type of tax return information with respect to each individual or does it vary depending on the category in which the person falls?

2. Was tax return information sought on the holdover employees in the White House who were retained by the Clinton Administration after President Clinton took office in January 1993? Did these holdover persons sign waivers for their tax return information? When were these tax waivers distributed to the holdover employees? And when were they completed and returned to the Counsel's Office? Please provide a true copy of each such signed waiver.

3. Has the current White House (or anyone acting on behalf of the transition) ever sought or received any tax return information on former employees of the White House, except for persons in the holdover category? If so, please provide a list of those persons.

4. Does the White House always obtain a waiver from the person about whom the White House is seeking tax return information? When is this waiver sought?

5. Please provide me with a copy of the tax waiver form (or forms) which the White House uses to obtain the person's consent. Has this waiver form been in use since January, 1993 or has it been modified since then?

6. Has the current White House ever exercised its authority under section 6103(g) of the IRC to request tax return information from the IRS about an individual without the person giving his or her prior consent? If yes, please elaborate.

7. How many reports has the White House filed with the Joint Committee on Taxation, pursuant to its obligation under IRC section 6103(g)(5) to report requests for tax return information to the Congress?

8. Has the White House ever obtained or been made aware of any tax return information on any current or former White House employees or pass holders, other than information received pursuant to a valid waiver or the exercise of its authority under IRC section 6103(g)?

9. Please provide to me a written copy of the White House policy and procedures for handling tax return information. Which White House employees are allowed to have access to tax return information? What is the "chain of custody" for tax return information within the possession of the White House? Please describe the locations where tax return information is received and stored at the White House.

Second, with respect to the 700+ persons whose FBI files were improperly requested by the White House, please answer the following questions:

10. When were those requests made of the FBI? That is, what was the month, day, and year of the requests?

11. When were these FBI files received by the White House from the FBI?

12. When were they returned to the FBI?

13. Did the White House (or anyone acting on behalf of the transition) request tax return information from the IRS with respect to any of these persons at any time after November 3, 1992?

14. Did any of these persons sign waivers, any time after November 3, 1992, requesting or allowing the IRS to send tax return information to the White House? If so, please provide a true copy of each such signed waiver.

15. Did the White House receive, from any source, tax return information on these persons at any time after November 3, 1992? If so, describe each instance.

Third, with respect to the seven persons who were discharged from the White House Travel Office on or about May 19, 1993 (i.e., Bradley L. Brasseux, Billy R. Dale, John P. Dreylinger, Ralph T. Maughan, John McSweeney, Robert S. Van Eimeren, and Gary D. Wright) please answer the following questions:

16. Did any of these persons sign a tax waiver anytime after November 3, 1992 relative to their continuing employment at the White House? When did these persons sign such a waiver, i.e., which month, day, and year? If so, provide a true copy of each such signed waiver.

17. Did the White House receive any tax information about these persons after November 3, 1992? If so, describe each instance.

18. Did the White House receive any tax information about these persons after their termination on or about May 19, 1993? If so, describe each instance.

19. What happened to the tax return information which the White House had in its possession on these individuals after their termination on or about May 19, 1993? Where was that tax information located and who had access to it? Where is that tax information currently located and who has access to it?

I believe your answers to my questions will help the Committee in its review of these issues. Thank you for your assistance. Please submit your response by Thursday, July 11, 1996 to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, D.C. 20515.

Sincerely,

Bill Archer
Chairman

cc: The Honorable Sam Gibbons

PORTER GOSS
14TH DISTRICT, FLORIDA

108 CANNON BUILDING
WASHINGTON, DC 20515-0913
(202) 225-2536

COMMITTEES:
RULES
CHAIRMAN SUBCOMMITTEE
ON LEGISLATIVE AND BUDGET PROCESS

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE
STANDARDS OF OFFICIAL CONDUCT

Congress of the United States
House of Representatives
Washington, DC 20515-0914

DISTRICT OFFICES:
2000 MAIN STREET
SUITE 303
FT. MYERS, FL 33901
(941) 332-4677

3301 TAMIAMI TRAIL EAST
BUILDING F, SUITE 212
NAPLES, FL 33962
(941) 774-8060

PUNTA GORDA
(941) 639-0051

June 28, 1996

Hon. William Clinger
Chairman
House Committee on Government Oversight
2157 Rayburn House Office Bldg.
Washington, DC 20515

Hon. Orrin Hatch
Chairman
Senate Committee on Judiciary
Senate Dirksen 224
Washington, DC 20510

Dear Chairman Clinger and Chairman Hatch:

I commend both of you for the professionalism with which you are conducting your committees' investigation into the highly troubling situation involving FBI files of hundreds of former Administration officials (predominantly Republicans) that were provided to the White House and remained in the possession of the security office for several years without any apparent legitimate purpose.

I enclose with this letter a copy of a GAO report that was completed in October 1995, subsequent to a request Members of Congress made for investigation by the GAO into the disturbing trend of permanent White House personnel not having proper access passes or appropriate background screening. At the time, of course, we had no idea about the existence of those 400-plus FBI files and the gross abuse of authority by the security office with regard to soliciting and maintaining that sensitive FBI material. As one of three requesters of the GAO report, I feel a responsibility to the Congress and to the American people to highlight this information -- and the questions I believe it raises in light of recent developments.

I believe this GAO report is extremely relevant to the work you are now conducting on several counts.

First, the timing. As was noted in a Wall Street Journal piece written by former FBI agent Gary Aldrich, "at the time the White House requested the files on previous Administrations' appointees -- one full year into the Clinton Administration -- more than 100 Clinton staffers, including then Press Secretary Dee Dee Myers, still had not been investigated by the FBI for passes or clearances." The fact of these apparent lapses in standard security policy at the White House is what led us to request the GAO investigation in the first place. It is puzzling that the security office, which clearly was having trouble meeting its legitimate work-load during the first year of the Administration, nonetheless had time to seek and begin reviewing files of former Administration personnel during that same period of time.

Secondly, the GAO was attempting to review the access controls and security office procedures at the very time that these files were in the possession of the security office. Although we (and GAO) had no way to have known that these files were wrongly being kept in that security office, it is notable that those whose responsibility it was for overseeing and managing that office could have remained unaware of their existence at a time when their activities were under investigation by an external review team. One might assume that such an external review would prompt an internal review to ensure that the security process was under control.

Thirdly, the GAO alerted us that it had a particularly difficult time in getting access to relevant data needed to complete its investigation. In fact, the first formal GAO request for information was made in May of 1994, while the first release of information by the White House to GAO did not occur until January 1995. During this extended period, a series of correspondence occurred between the requesters of this investigation (myself included) and the Administration -- primarily Chief of Staff Leon Panetta and Special Counsel to the President Lloyd Cutler (I enclose those letters). The Administration, which claimed to have interest in assisting the GAO in its work, was nonetheless delaying the process, arguing among other things that it was necessary to protect the privacy of White House personnel. It is not believable that the Chief of Staff or officials in the Counsel's office would not have discovered the presence of those FBI files in that security office at a time when they were working diligently to prepare for and assist in a GAO review of the procedures of that office.

Finally, the GAO report, which was released in October 1995, was provided, in draft form to the White House, along with the FBI and the Secret Service, for comment. The report addressed GAO's observations about the need to refine the procedures of the security office and consider implementing additional controls. It noted that "the scope of [our] work did not address whether problems occurred as a result of the potential control weaknesses. While we did not identify specific problems, we believe it is appropriate to consider improving these controls."

In particular, the GAO discussed procedures for handling cases where people are no longer employed by the Administration. The report noted that "[T]he Secret Service has no process to verify an individual's continued need for a pass. Secret Service officials stated that they rely on the White House to notify them when an individual leaves or a pass should be terminated. White House officials stated that they monitor arrivals and departures of staff closely and that passes are returned unless retention is justified." Certainly, in light of recent testimony about the confusion over outdated lists and questions of who might still be in need of access to the White House, this finding raises interesting issues.

I do not know whether the White House took the GAO's suggestion about strengthening controls to heart and followed up on the GAO's work with further review of its own. One might assume that if it did do such follow up work, perhaps officials would have discovered the presence of those FBI files in that office somewhat sooner than recent public statements suggest.

It is my view that these and other questions stemming from the GAO report and the investigation that proceeded it might be important to pursue as you conduct your inquiries. If I can be of further assistance, please don't hesitate to ask.

Kindest regards,

Porter J. Goss
Member of Congress

THE WHITE HOUSE
WASHINGTON

November 15, 1994

The Honorable Porter J. Goss
U. S. House of Representatives
330 Cannon Building
Washington, DC 20515

Dear Representative Goss,

Thank you for your recent correspondence concerning the GAO's review of White House procedures for issuing access passes and security clearances.

Let me assure you that there is no effort on the part of anyone at the White House to delay the GAO review in any way. To the contrary, a significant amount of staff time and energy has been devoted to the review, and it is making substantial progress. While much work remains to be done, be assured that I share your objective that the project be completed as expeditiously as possible.

Please do not hesitate to contact me if you have any further questions on this matter.

Sincerely,

Leon E. Panetta
Chief of Staff

FRANK R. WOLF
10TH DISTRICT, VIRGINIA

WASHINGTON OFFICE
104 CANNON BUILDING
WASHINGTON, DC 20515-4610
(202) 225-5136

CONSTITUENT SERVICES OFFICES
13873 PARK CENTER ROAD
SUITE 130
HERNDON, VA 22071
(703) 709-5800
1-(800)-945-9653
(WITHIN VIRGINIA)

110 NORTH CAMERON STREET
WINCHESTER, VA 22601
(703) 667-0990

Congress of the United States
House of Representatives
Washington, DC 20515-4610

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES
TRANSPORTATION
TREASURY—POSTAL SERVICE—GENERAL GOVERNMENT
COMMISSION ON SECURITY AND COOPERATION IN EUROPE

October 7, 1994

The Honorable Leon E. Panetta
Chief of Staff
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. Panetta:

On March 23, 1994, we requested that the General Accounting Office (GAO) conduct a review of the procedures the White House followed since January 20, 1993, regarding the issuance of White House passes and security clearances. We are concerned that to date, GAO has not received any of the information requested of the White House. Previous correspondence with Mr. Cutler had indicated that the White House would cooperate (see attached). Despite a series of meetings the information has not been forthcoming. This stonewalling is causing the GAO added time and added costs in trying to conduct this investigation.

As you may recall, this GAO investigation was initiated because of the White House footdragging on responding to congressional inquiries regarding the unprecedented delay (over a year for many senior staffers) in obtaining permanent White House passes. Now the White House is similarly delaying the GAO investigation into this initial delay. As we have made clear on numerous occassions, the information could be provided in a "blind" fashion without indicating the names or identities of each individual staff member. We understand the GAO has stressed this point to the White House staff also.

We respectfully request that you instruct your staff to provide the requested information to GAO so that this investigation may proceed. The delay by the White House only adds to the costs of this investigation. The data we have requested is specific and most of it should be readily available already to be turned over to GAO. We do not believe it serves anyone's purpose to have this matter continue for months longer or to carry over into the next Congress.

Sincerely,

Frank R. Wolf
Member of Congress

William F. Clinger, Jr.
Member of Congress

Porter J. Goss
Member of Congress

THE WHITE HOUSE

WASHINGTON

July 21, 1994

The Honorable Porter J. Goss
Congress of the United States
House of Representatives
Washington, D.C. 20515

Dear Representative Goss:

I am writing in response to your June 29 letter concerning a proposed General Accounting Office (GAO) review of the process for issuing White House passes and security clearances. We continue to have serious questions about the statutory basis for the review. Nonetheless, without waiving our legal position and in the spirit of cooperation, we are prepared to provide the GAO much of the information you have requested.

As currently formulated, the request seeks "certain specific dates on which White House staff completed the required steps of the White House pass and security clearance process." We will provide this information to the GAO on the express understanding that this is not merely the first stage of a broader review. In particular, under no circumstances would we permit review of individual background investigations or any other information that would violate the legitimate privacy interests of White House personnel. In that regard, we appreciate your acknowledgement that individuals need not be identified by name. We will continue to work with the GAO to find the best way to provide the requested information in a format that fulfills the purpose of the inquiry while at the same time protecting these confidentiality concerns.

If the terms of this letter are agreeable to you, please let me know. Please let me know if I can answer any further questions on this matter.

Sincerely,

Lloyd N Cutler

Lloyd N. Cutler
Special Counsel to the President

Congress of the United States
House of Representatives
Washington, DC 20515

June 29, 1994

The Honorable William J. Clinton
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We are disturbed to learn that the White House Counsel's office has refused to cooperate with the General Accounting Office (GAO) review regarding White House passes, security clearances and outside consultants that we requested on March 23, 1994. GAO has informed us that the White House Counsel's office has refused to provide the information it has requested. In addition, GAO has told us that individuals from the White House Counsel's office have implied that we may no longer be interested in having GAO pursue this matter.

To ensure that there is no misunderstanding, we want to affirm that we remain fully committed to obtaining a complete evaluation of the processes of issuing passes and security clearances and the work being done by outside consultants. We view this as a serious matter that is deserving of your Administration's complete cooperation.

Over the course of the past several months, requests about this situation have been met with evasive, incomplete and even inaccurate responses that have needlessly prolonged an accurate public understanding of this matter. It was only after considerable pressure from the media that the White House revealed that several hundred White House staff had not received their permanent passes or security clearances. Indeed, some senior members of your staff, including Press Secretary Dee Dee Myers, had not even bothered to complete the initial paperwork which is required to initiate a background investigation.

GAO's request, made on our behalf, is straightforward. It merely asks for certain specific dates on which White House staff completed the required steps of the White House pass and security clearance processes. Individuals do not need to be identified by name. The information requested by GAO is basic to the review we have asked them to perform. It is the only way to provide factual data that will permit an objective analysis of the overall process.

Page 2
The Honorable William J. Clinton

Most of the requested information is maintained by the Office of Administration, Federal Bureau of Investigation, or the United States Secret Service. Accordingly, we do not believe there is any legal basis for a representative of the White House Office to limit or restrict the availability of this information to GAO, especially when they are acting in response to a congressionally requested inquiry. If your Counsel has a contrary opinion that is based in law, we will appreciate hearing from him. In the meanwhile, we have asked GAO to formally request each of the above mentioned agencies to provide the information maintained within their records.

We ask that you give this matter your immediate attention and instruct your Counsel to relinquish his objection to GAO obtaining this information.

Sincerely,

William F. Clinger

Rep. William F. Clinger, Jr.
Member of Congress

Frank R. Wolf

Rep. Frank R. Wolf
Member of Congress

Porter J. Goss

Rep. Porter J. Goss
Member of Congress

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

File FBI House

FACSIMILE TRANSMISSION

TO: Jonathan Yarowsky

FROM: Barbara Olson

DATE:

PH~~ONE~~: 456-5055

There will be a total of 4 pages, including this page.

Comments: Sorry it took so long. This is the primary letter that I have been trying to get a response to. Thanks

BO

If there are any questions or problems regarding this transmission, please call the sender at (202) 225-5074.

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

June 21, 1996

need these questions answered!

John M. Quinn, Esquire
White House Counsel
The White House
Washington, D.C. 20500

Dear Mr. Quinn:

In light of recent revelations concerning the White House's obtaining of FBI files of 407 former Reagan and Bush Administration officials and the roles of various individuals at the White House in this affair, I would appreciate the following information.

First, please provide all information on who hired Mr. Livingstone, who vetted his file and reviewed his background and who made any recommendations on Mr. Livingstone's behalf. Was Presidential Personnel Chief Bruce Lindsey involved in Mr. Livingstone's hiring? Was Chief of Staff Mack McLarty involved in Mr. Livingstone's hiring? Was White House Counsel Bernard Nussbaum involved in Mr. Livingstone's hiring? Was Senior Advisor George Stephanopoulos involved in Mr. Livingstone's hiring? Please identify all individuals who played any role in Mr. Livingstone's hiring.

In addition, I request the following information:

1. The date of when Mr. Livingstone obtained his security clearance, the level of clearance and the name of the individual(s) who vetted Mr. Livingstone.

2. The date of when Mr. Anthony Marceca obtained his security clearance, the level of clearance and the name of the individual(s) who vetted Mr. Marceca.

3. The salaries of all employees of the Office of Personnel Security from January 20, 1993 to the present including the salaries of all detailees to that office. For those individuals who were serving as interns in the office prior

to being put on salary, please indicate the date on which the individual started as an intern as well as the date of employment.

4. The names of all individuals who have worked in the Office of Personnel Security as interns, employees, or detailees since January 20, 1993 to the present and when each individual received his or her security clearance.

5. The names of all interns who worked in the Office of Personnel Security from January 20, 1993 to the present.

6. All memos to and/or from Craig Livingstone, Anthony Marceca, William Kennedy, Bernard Nussbaum, Vincent Foster, Joel Klein, Lloyd Cutler, Abner Mikva, John M. Quinn, Jane Sherburne, Beth Nolan, Cliff Mauton, Christopher Cerf, Tray Schraeder, Ed Hughes, Jonathan Denbow, Mari Anderson or Ms. Lisa Wetzel regarding anything having to do with the updating of White House passes, security clearances, FBI background files or any operations of the Office of Personnel Security. Note: This would include all memos such as the "Personal Data Statement & Questionnaire" which was apparently sent to all holdover White House staff. (Please exclude confidential privacy act information and responses to the Personal Data Statement & Questionnaire.)

7. Records of Craig Livingstone's entrances and exits to the White House complex from May 1, 1996 to June 20, 1996.

8. Any Usher's Records or Secret Service records of every occasion on which Craig Livingstone has been in the White House residence from January 1, 1996 to the present.

9. All records of visitor logs of visitors to the White House who were waved in to see Mr. Marceca for the entire time he was at the White House from August 1993 through March 1994 and any visits he has made to the White House from January 1, 1996 to the present.

10. All records of visitor logs of visitors to the White House who were waved in to see Craig Livingstone from January 20, 1993 to present.

11. All records of phone logs or messages for Craig Livingstone from April 1, 1993 - March 1, 1994 and from May 1, 1996 - June 18, 1996.

12. The salary history of William Kennedy from January 20, 1993 to the time he left the White House.

13. Records reflecting any reprimands regarding issues related to White House passes or security clearances or the obtaining of FBI background files of William Kennedy, Craig Livingstone, Anthony Marceca, or any staff (paid or unpaid) of the Office of Personnel Security or White House Counsel's Office.

Please provide all available records by close of business (6p.m.) Monday, June 24, 1996.

Sincerely,

William F. Clinger, Jr.

William F. Clinger, Jr.
Chairman

THE WHITE HOUSE

WASHINGTON

June 13, 1996

BY HAND DELIVERY

The Honorable William F. Clinger, Jr., Chairman
Committee on Government Reform and Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Clinger:

This responds to your letter of June 10 and your two letters of June 12, 1996.

We have undertaken to identify records related to Anthony Marceca's detail to the White House as well as the documents you describe as "Executive Office of the President Rosters of Employees." We will provide such records, if any, as soon as possible.

In light of the investigations by the Independent Counsel and the FBI we have not on our own undertaken to ascertain all those individuals with knowledge about the retrieval of FBI reports. However, we are aware that two former White House employees, Nancy Gemmell and Lisa Wetzl, and the Director of the Personnel Security Office, Craig Livingstone, have familiarity with efforts by the Office to update the files of holdover employees.

Finally, until the investigators from the FBI and the Independent Counsel have completed their work, we are not undertaking ourselves to locate documents related to the file updating or the transfer of files to the archives. I am enclosing, however, a copy of a File Memorandum related to our retrieval of certain files from the archives and their transfer to the custody of the FBI.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

cc: Hon. Cardiss Collins

THE WHITE HOUSE

WASHINGTON

July 12, 1996

BY FACSIMILE

The Honorable William F. Clinger, Jr., Chairman
Committee on Government Reform and Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Chairman Clinger:

This letter is in response to your letter to Mary Beck of July 8, 1996, in which you requested a list of those individuals who worked in the residence from January 20, 1993 through December 31, 1993. Enclosed is a list of those employees. We are providing this information with the understanding that, should the Committee wish to contact any of these individuals, your staff will work through the Counsel's Office to reach them.

As always, we request that you treat this document as "Highly Confidential" in accordance with the protocols set forth in Ms. Williams August 9, 1995 letter to Mr. Larsen.

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosure
cc: Hon. Cardiss Collins (with enclosure)

January 20, 1993 through December 31, 1993

EXECUTIVE RESIDENCE STAFF

Allen, James W.
Allman, William G.
Arnold, Mary F.
Atkinson, James
Barbour, Dianne S.
Barrett, Annie E.
Barrett, James E.
Blake, Pearlena
Bowen, Janet
Brooks, Sylvena
Carter, Richard R.
Carter, William A.
Carter, Robert
Castelo, Anita
Chambrin, Pierre
Chapman, Richard
Clark, Cletus
Clarke, Nancy K.
Cliber, William R.
Collick, Lester
Collick, Adam R.
Davis, Sallie Ann
Elsasser, Wendy B.
Emery, Christopher B.
Fanning, John E.
Frame, Milton
Freeburger, Jeffrey A.
Freemyer, Dennis W.
Fries, Clark L.
Fulghum, Keith P.
Gallahan, Robert B.
Gemmell, William T.
Grayson, William J.
Haddon, Sean T.
Hamilton, William N.
Hannie, George W.
Hawk, Dennis
Henry, Samuel A.
Horton, Angela
Jensen, Joel
Jerman, Wilson R.

Watson, Edgar L.
Whiston, Timothy P.
White, Worthington W.
Williams, Irvin M.
Williams, Gary E.
Windsor, Edward A.

Jones, Ronald
Keel, Matthew
Limerick, Christine C.
Little, Linsey R.
Martin, Eric R.
McCloskey, Matthew
McCulloch, Franette E.
McKinney, Rickey Lee
Mesnier, Roland R.
Mitchell, Nancy F.
Moeller, John A.
Monkman, Betty C.
Morrow, Benjamin H.
Muffler, Richard T.
Muffler, John P.
Nock, Arthur W.
Olive, Fred K.
Paje, Juanito P.
Payne, Ronald L.
Pearson, Melvin R.
Pettit, James A.
Peyton, Rockwood L.
Ramsey, James
Riley, James W.
Robbins, Mark L.
Rock, Brian K.
Saenz, Alfredo
Saint-Aubin, Smile
Sanders, Julia M.
Sanvictores, Ricardo
Savoy, Tony O.
Scarfone, John J.
Selmon, James E.
Shuford, Willie T.
Silva, Ivaniz M.
Smith, Ronald J.
Smith, Alma M.
Spangler, Judith
Stevens, Stewart C.
Stolz, Estelle M.
Tederick, Lydia
Tederick, Paul M.
Thompson, Lawrence M.
Wallace, Natalie V.
Walters, Gary J.
Walters, James R.