

FOIA MARKER

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Folder Title:

FBI - Senate [5]

Staff Office-Individual:

Counsel's Office-Sherburne, Jane

Original OA/ID Number:

CF 396

Row:	Section:	Shelf:	Position:	Stack:
21	2	10	2	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. resume	Charles Easley. (1 page)	00/00/1996	b(7)(C), b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Jane Sherburne
OA/Box Number: CF 396

FOLDER TITLE:

FBI - Senate [5]

2006-1066-F

vz3597

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C G. HATCH, UTAH, CH V

STROM THURMOND, SOUTH CAROLINA
ALAN K. SIMPSON, WYOMING
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
HANK BROWN, COLORADO
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
MIKE DEWINE, OHIO
SPENCER ABRAHAM, MICHIGAN

JOSEPH R. BIDEN, JR., DELAWARE
EDWARD M. KENNEDY, MASSACHUSETTS
PATRICK J. LEAHY, VERMONT
HOWELL HEFLIN, ALABAMA
PAUL SIMON, ILLINOIS
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

MARK R. DISLER, *Chief Counsel*
MANUS COONEY, *Staff Director and Senior Counsel*
CYNTHIA C. HOGAN, *Minority Chief Counsel*
KAREN A. ROSS, *Minority Staff Director*

August 26, 1996

The Honorable Leon Panetta
Chief of Staff to the President
The White House
Washington, D.C. 20500

Dear Mr. Panetta:

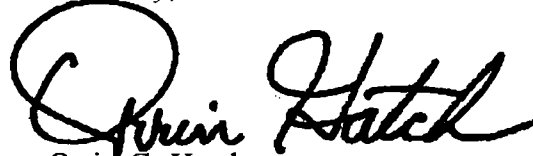
As you know, the Senate Judiciary Committee is investigating the circumstances surrounding the White House's request for, and receipt and handling of the FBI background files of a large number of individuals from former administrations. The Judiciary Committee has held three hearings regarding this matter, and I plan to hold an additional hearing on this subject as well as the White House's communications with the Federal Bureau of Investigation and Department of Justice regarding these matters and its response to Congressional requests for documents and information.

I request that Mr. Jack Quinn, Counsel to the President, and Ms. Jane C. Sherburne, Special Counsel to the President, appear before the Senate Judiciary Committee on September 5, 1996, to respond to questions regarding the White House's involvement in this matter. My staff will contact them regarding the time and location of the hearing in the near future. Please confirm that both Mr. Quinn and Ms. Sherburne will appear before the Committee at this hearing by August 30, 1996. Please also advise me whether Mr. Quinn and Ms. Sherburne are willing to be interviewed by Committee staff before the hearing. If so, my staff will arrange a mutually agreeable time.

In addition, I request that the White House promptly provide the Committee with the documents requested on July 3, and again on July 23, but which have yet to be produced.

Should you have any questions regarding this request, please feel free to contact me or have someone from your staff contact Mark Disler, Chief Counsel, at (202) 224-5225.

Sincerely,



Orrin G. Hatch
Chairman

cc: Senator Joseph R. Biden, Jr.
Ranking Member

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
ALAN K. SIMPSON, WYOMING
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
HANK BROWN, COLORADO
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KAREN A. ROBB, *Minority Staff Director*

August 26, 1996

Ms. Jane C. Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

In Manus Cooney's absence this week, I am responding to your August 23, 1996 letter to him, and your rejection of the protocol earlier conveyed to you. Although I have not met or dealt with Jim Weber, please convey to him my congratulations on the birth of his child.

I appreciate your interest in cooperating with Chairman Hatch's inquiry and that you have assembled material responsive to his request. Such response is certainly long overdue, the requests having been made on July 3 and July 23. As has been previously communicated to you, we are willing to take special steps to protect the security of documents you provide us, including unusual limitations on access to documents and requiring designated Senate staff to sign agreements under threat of sanctions. We are not prepared, however, to have the Committee's procedures micromanaged as a condition of the receipt of documents to which the Committee is entitled.

Accordingly, I have enclosed a revised protocol. It takes into account the concerns which I understand you have expressed and which are reflected in your proposed protocol. I am, of course, willing to explain the rationale for its terms, but I am not prepared to negotiate further over those terms.

We are prepared to implement the enclosed protocol. Chairman Hatch believes further delay in the White House's response to him is unacceptable. If we do not receive responses to Chairman Hatch's request for material by 3 p.m. on August 30, 1996, you may consider the enclosed protocol as withdrawn. The Committee will, instead, proceed to take up the consideration of subpoenas for the requested material.

Sincerely,



Mark R. Disler
Chief Counsel

MRD:db
Enclosure
cc: Cynthia Hogan, Esq.

PROTOCOLS FOR ACCESS TO, PHYSICAL CUSTODY OF, AND PUBLIC USE AND DISCLOSURE OF DOCUMENTS PROVIDED TO THE SENATE JUDICIARY COMMITTEE BY THE WHITE HOUSE IN ITS INQUIRY INTO WHITE HOUSE REQUESTS FOR FBI BACKGROUND INVESTIGATION REPORTS AND RELATED MATTERS.

1. ACCESS - Senate staff access to all documents submitted by the White House in response to Committee requests dated July 3, 1996 and July 23, 1996 (the "Documents") will be limited to Committee Staff designated by the Chairman and the Ranking Member, and one (1) designated staff person from each Member of the Committee. No other staff for Members of the Committee, nor any other Senate staff, may review the Documents without the authorization of the Chairman. All designated staff shall agree to the conditions set forth in this protocol and shall execute the attached confidentiality agreement.

2. CUSTODY - The Documents will be maintained at all times in a secure fashion. Only staff designated pursuant to paragraph one (1) shall be permitted to review the Documents. Copies of the Documents may be made by the Chairman's designated staff to facilitate review by staff designated pursuant to paragraph one (1). All copies made for such review will remain under the control of the Chairman. Designated staff may take notes, but may not make copies of Documents, except as previously provided in this paragraph, or if such copies are made for the purpose of public disclosure pursuant to this protocol, or for use by designated staff or Senators in preparation for a hearing.

3. PUBLIC DISCLOSURE - Documents will be maintained in a "Committee confidential" status and will not be publicly released, except as follows: (1) The Chairman shall have the authority to decide whether, and how, Documents may be publicly disclosed. The Chairman shall make such decisions after consultation with the Ranking Member. (2) Documents may also be utilized, and introduced into the hearing record, at public hearings of the Committee. No staff of the Committee shall disclose, in whole or in part or by way of summary, the Documents subject to these protocols unless authorized by the Chairman in consultation with the Ranking Member. This protocol does not preclude public disclosure of information derived from other sources.

UNITED STATES SENATE

**CONFIDENTIALITY AGREEMENT RELATING TO THE SENATE JUDICIARY
COMMITTEE'S INQUIRY INTO THE WHITE HOUSE REQUESTS FOR FBI
BACKGROUND INVESTIGATION SUMMARIES AND RELATED MATTERS.**

I have read, understand, and initialed the attached document protocols. I will abide by these protocols. I understand I will be subject to sanctions, including loss of pay or removal from employment, if I disclose confidential information or Documents in violation of these protocols.

Signature

Printed Name

Office

Date

THE WHITE HOUSE

WASHINGTON

August 23, 1996

BY TELECOPY

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

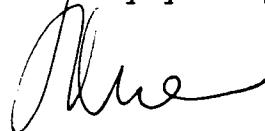
Dear Manus:

As I have mentioned in prior correspondence, we are prepared to produce documents to you in response to the Chairman's request as soon as we have protocols for their handling. We provided you with a proposal and invited you to contact me or Jim Weber with your comments. Mr. Larkin left voice messages for Mr. Weber earlier this week and telecopied to him an alternative proposal. Mr. Weber became a new parent on Monday so did not receive these communications from Mr. Larkin until Wednesday afternoon when he stopped by his office. I apologize for our delay in responding.

We are interested in cooperating with the Chairman's inquiry and have assembled material responsive to his request. Although we have understood you to state an eagerness about receiving our material promptly, Mr. Larkin's protocol proposal hardly seems like a serious effort to resolve the only remaining obstacle. For example, you cannot seriously expect that we would agree to a protocol that refers to the Committee's inquiry as the "Ex-Files."

In the interests of moving this along, we have revised our proposal to take into account what appeared to be the key elements of Mr. Larkin's draft. Please feel free to give me or Jim a call to discuss any remaining issues.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosure

cc: Cynthia Hogan, Esq. (w/encl)

**PROTOCOLS FOR ACCESS TO, PHYSICAL CUSTODY OF, AND PUBLIC USE AND
DISCLOSURE OF DOCUMENTS PROVIDED TO THE SENATE JUDICIARY
COMMITTEE BY THE WHITE HOUSE IN ITS INQUIRY INTO WHITE HOUSE
REQUESTS FOR FBI BACKGROUND INVESTIGATION REPORTS AND RELATED
MATTERS.**

1. DESIGNATION -- All documents submitted to the Committee by the White House in response to Committee requests (the "Documents") shall be considered to be within the confidential business of the Committee for purposes of Paragraph 5 of Rule XXIX of the Standing Rules of the Senate. Any staff member who violates the confidentiality procedures of the Committee shall be immediately subject to sanctions, including removal from employment.

2. ACCESS - Senate staff access to the Documents will be limited to Committee staff designated by the Chairman and the Ranking Member, and one (1) designated staff person from each Member of the Committee. No other staff for Members of the Committee, nor any other Senate staff may review the Documents without the prior written agreement of the Chairman and Ranking Member. All designated staff shall agree to the conditions set forth in this protocol and shall execute the attached confidentiality agreement.

3. CUSTODY - The Documents will maintained at all times within specially-designated, safe and secure rooms of the Committee office space. Only staff designated pursuant to paragraph two (2) shall be permitted to review the Documents. Designated staff may take notes, but may not make copies of Documents, or remove them from the secure office space unless authorized by the Chairman after consultation with the Ranking Member.

4. PUBLIC DISCLOSURE - Documents will be maintained in a "Committee confidential" status and will not be publicly released. Only the Chairman, after consultation with the Ranking Member, shall authorize the public disclosure of Documents. Documents may be introduced into the hearing record at public hearings of the Committee on the subject matter of this inquiry. The White House will be provided advance notice of any public disclosure of Documents, other than those disclosed at public hearings. No Member or staff of the Committee shall disclose, in whole or in part or by way of summary, the Documents subject to these protocols unless authorized by the Chairman in consultation with the Ranking Member.

UNITED STATES SENATE

**CONFIDENTIALITY AGREEMENT RELATING TO THE SENATE JUDICIARY
COMMITTEE'S INQUIRY INTO THE WHITE HOUSE REQUESTS FOR FBI
BACKGROUND INVESTIGATION SUMMARIES AND RELATED MATTERS.**

I have read and understand the attached document protocols.
I will abide by those protocols and maintain the confidentiality
of all Documents and information of which I become aware related
to the above referenced matter. I understand I will be subject to
sanctions, including removal from employment, if I disclose
confidential information or Documents.

_____ (Signature)

_____ (Printed Name)

_____ (Social Security #)

_____ (Date)

PROTOCOLS FOR ACCESS TO, PHYSICAL CUSTODY OF, AND PUBLIC USE AND DISCLOSURE OF DOCUMENTS PROVIDED TO THE SENATE JUDICIARY COMMITTEE IN ITS INQUIRY INTO THE WHITE HOUSE'S REQUESTS FOR FBI BACKGROUND INVESTIGATION SUMMARIES AND RELATED MATTERS.

1. DESIGNATION- All documents submitted to the Committee shall be designated either as "confidential" or "confidential and personal". The White House shall make the appropriate designation in consultation with the Chairman and the Ranking Member.

All documents submitted to the Committee by the White House, regardless of designation, shall be considered to be within the confidential business of the Committee for purposes of Paragraph 5 of Rule XXIX of the Standing Rules of the Senate. Any staff member who violates the confidentiality procedures of the Committee shall be immediately subject to sanctions, including removal from employment.

2. ACCESS - Senate staff access will be limited to designated Committee investigative staff, and one (1) designated staff person from each Member of the Committee. No other staff for Members of the Committee, nor any other Senate staff may review the materials without the prior written agreement of the Chairman and Ranking Member. All designated staff shall, as a condition of employment, agree to the conditions set forth in these protocols and shall execute a confidentiality agreement consistent with these protocols. (A form of that agreement is attached.)

3. CUSTODY - The documents will maintained at all times within specially-designated, safe and secure rooms of the Committee office space. Only staff designated pursuant to paragraph two (2) shall be permitted to review the documents. Designated staff may take notes, but may not make copies of documents, or remove them from the secure office space.

4. PUBLIC DISCLOSURE - Documents will not be publicly released. No Member or staff of the Committee shall disclose, in whole or in part or by way of summary, the materials subject to these protocols unless authorized by the Chairman with the concurrence of the ranking Member.

Documents that are publicly available at the time of production to the Committee, or which subsequently become publicly available, or to which public access is provided, will no longer be treated as within the scope of these protocols.

Documents identified as "confidential" may be introduced into the hearing record at public hearings of the Committee on the subject matter of this inquiry. Although any Member may refer to, describe, or characterize the documents described as "confidential and personal" at public hearings of the Committee on the subjects of this inquiry, documents so designated will not be made public by the Committee.

The White House will be available to discuss and consider requests from the Majority or Minority to introduce into the hearing record documents designated "confidential and personal" if there is a compelling need shown for its public release at a hearing.

UNITED STATES SENATE

CONFIDENTIALITY AGREEMENT RELATING TO THE SENATE JUDICIARY COMMITTEE'S INQUIRY INTO THE WHITE HOUSE REQUESTS FOR FBI BACKGROUND INVESTIGATION SUMMARIES AND RELATED MATTERS.

I have read and understand the attached document protocols. I will abide by those protocols and maintain the confidentiality of all materials and information of which I become aware related to the above referenced matter. I understand I will be subject to sanctions, including removal from employment, if I disclose confidential information or materials.

_____ (Signature)

_____ (Printed Name)

_____ (Social Security #)

_____ (Date)

THE WHITE HOUSE
WASHINGTON

August 21, 1996

BY TELECOPY

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

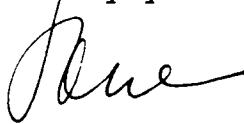
Dear Manus:

I received your letter inquiring about the status of Senator Hatch's request for documents relating to the issue of executive privilege. By letter dated July 25, 1996, we produced the documents describing the invocation of executive privilege. By letter dated July 30, 1996, I invited you to let me know if you needed anything further in connection with this request. Subsequently, members of your staff requested orally several additional documents, which we provided to you on August 15, 1996. Please let me know if you are interested in anything further.

You also specifically requested a copy of DF 781498-500, a memorandum dated September 16, 1993 from Mr. Nussbaum and Mr. Neel to Mr. McLarty. The document is enclosed.

Please feel free to give me a call if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures
cc: Cynthia Hogan, Esq. (w/encl)

THE WHITE HOUSE

WASHINGTON

September 16, 1993

MEMORANDUM FOR THOMAS F. MCLARTY III
CHIEF OF STAFF

FROM: BERNARD W. NUSSBAUM
COUNSEL TO THE PRESIDENT

ROY NEEL
DEPUTY CHIEF OF STAFF

SUBJECT: White House Access Policy

The White House Travel Office Management Review included among its nine "Management Improvements" a commitment that "[t]he Chief of Staff, in conjunction with the Counsel to the President, will provide guidance on access to the White House."

This memorandum recommends the following policy for approving the issuance of White House hard badges, which give access to the White House complex.

WHITE HOUSE ACCESS POLICY

White House hard badges (permanent passes) will, absent exceptional circumstances (to be determined by the Chief of Staff with guidance from the Counsel to the President as set forth below), be issued only to employees of the Federal government, with the sole exception of:

- i) family members of the First Family, and
- ii) individuals employed by the Democratic National Committee ("DNC") whose duties require regular consultation with the President and his staff.

If a staff member believes that a non-employee's status merits the issuance of a hard badge, he or she must follow the procedures outlined below.

I. Department Completion of Request for Access Form

A staff member wishing to request a hard badge for an individual who is not an employee of the Federal government shall complete a "Request for Access" form. These forms are available in the White House Security Office (Room 84). In addition to regular employees of the Executive Office of the President, employees include Cabinet members and their staff, detailees, special



DF 781498

government employees (including consultants), interns, full-time volunteers and volunteers approved by the Volunteer Office to provide administrative assistance.

Staff members requesting a hard badge for a particular individual must provide all relevant information about the individual for whom access is requested, including detailed reasons for the request.

II. Preliminary Approval by the Chief of Staff

The Chief of Staff, or his designee, shall review all Request for Access forms. He will make a preliminary determination as to whether a non-employee qualifies under the policies stated herein for a hard badge.

If the Chief of Staff or his designee determines that the level of access needed by the individual is sufficient to warrant issuance of a hard badge, he will forward the Request for Access form, under his signature, to the Counsel's Office for review.

III. Review by the Office of the Counsel to the President

The Counsel's Office will review requests for hard badges and will make any additional inquiries needed to reach an informed decision regarding the activities in which the individual will be participating and his or her need for access.

Prior to making a recommendation for a hard badge, the Counsel's Office will, after consultation with the individual, identify areas from which the individual should refrain from participating in light of actual or potential conflicts of interest. The non-employee passholder will be advised of these areas and a memorandum will be placed in the passholder's file with this information.

The Counsel's Office then will recommend:

- A) whether a badge should be issued; and,
- B) the type of badge the non-employee should receive.

After reviewing a Request for Access form, the Counsel's Office will forward the form and its recommendations to the Chief of Staff for final action.

IV. Final Approval by the Chief of Staff

The Chief of Staff, or his designee, after reviewing the Counsel's Office's recommendation with respect to each request, will grant or deny final approval of requests for hard badges.

The Chief of Staff's Office will notify the staff member who requested the hard badge of the decision.

In those instances in which a non-employee receives approval for a pass, he or she will receive a Non-Government Status ("NGS") hard badge.

V. Family Members of the First Family

The Chief of Staff will approve hard badges for family members of the First Family as a matter of course. The Counsel's Office need not review such requests.

-- END --

Please indicate your decision regarding this policy below:

Approve ____

Approve with modifications ____

Disapprove ____



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

AUG 20 1996

The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Attention: Ms. Jane Sherburne
Special Counsel

Dear Ms. Sherburne:

As requested, a copy of the response to Senator Stevens concerning the handling of background investigation reports in USAID is provided. If you have any questions concerning this matter, please contact Randy Streufert at (703) 875-4800.

Sincerely,

Thomas H. Mc Donnell
Deputy Assistant Inspector General
for Security

Enclosures:

1. USAID Response to Senator Stevens, of August 8, 1996
(w/o enclosures)
2. Request from Senator Stevens of July 8, 1996

cc: IG, Jeffrey Rush, Jr. (w/o enclosures)
AA/M, Larry Byrne (w/o enclosures)
ES, Ryan Conroy (w/o enclosures)
GC, Singleton McAllister (w/o enclosures)



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

August 8, 1996

*Office of
Inspector General*

The Honorable Ted Stevens
Chairman
Committee on Governmental Affairs
United States Senate
Washington D.C., 20510-6250

Dear Mr. Chairman:

Thank you for your letter of July 8, 1996, concerning the handling of background investigation reports. Administrator Atwood has asked me to respond and provide the following information in reply to your inquiry.

Question (1): Please transmit a copy of any applicable policies, directives, rules, regulations, or statutes that govern the handling, storage dissemination, copying, summarizing, transcribing, or disclosure of background investigation files on administration personnel, including personnel from prior administrations or who no longer work for your department or agency.

Answer (1): The documents requested are enclosed.

Question (2): Who in your department or agency is responsible for enforcement of these policies, rules, regulations, or statutes?

Answer (2): The responsibility for the management and security of USAID ultimately rests with the Administrator. Under § 8A of PL 95-452, Inspector General Act of 1978, as amended in 1981, the Inspector General for the Agency for International Development "...shall supervise, direct, and control all security activities relating to the programs and operation of that Agency.." The statute further provides for an Assistant Inspector General for Security (AIG/SEC) "...who shall have the responsibility for supervising the performance of the security activities relating to the programs and operations of the Agency for International Development." Under Executive Order 12968, "Access to Classified Information," the AIG/SEC, a career Senior Executive civil servant, has been designated by the Administrator as the senior agency official to direct and administer specified security functions, including a background investigations program.

Question (3): During this administration has your department or agency, or has any employee, detailee, fellow, or temporary staff member, violated or attempted to violate these policies, rules, regulations or statutes?

Answer (3). There is no record, account or indication of any such violation or attempted violation of the enclosed policies.

Question (4): At any time during the current administration have your department or agency's policies and practices changed with respect to the handling of background investigation files, or with respect to request for access to or copies or summaries of background investigation files? Please submit copies of any such changes, the dates of the changes, and the prior versions.

Answer (4): There have been no changes to the specific policies or procedures with respect to the handling of personnel security clearance files or with respect to requests for access to the information contained in the files since January 1993. The policy contained in Chapter 5, USAID Handbook 6 (enclosed) has been undergoing a conversion to Automated Directives System format but is not yet completed. The Special Agent Manual (applicable portions enclosed) was updated in December 1995. Revisions to update some of the categories of information in the USAID System of Records (provided as part of enclosure 9) are being drafted. No substantive changes were made or are being contemplated in these documents regarding the policy, handling, storing, or accessing of personnel security investigation files.

Question (5): Has your department or agency kept records on former employees that include background investigation files, or summaries thereof?

Answer (5): In accordance with Part II, USAID Handbook 21, Records Management (contained within enclosure 6) personnel security clearance files are maintained no longer than five years after separation or transfer of the employee, no longer than five years after a contract relationship expires or upon notification of death, whichever is applicable. As required by Code of Federal Regulations 32 §2003.20, the Classified Information Nondisclosure Agreements (Standard Form 312) on agency employees must be maintained for 50 years following the date of execution.

Question (6): Do you maintain a record or log of who has had access to these employee records?

Answer (6): Yes, such records of access are maintained.

Officials requesting access must provide appropriate identification, i.e., federal government-issued credentials. In addition, the official must complete a form with his/her name and official title; the identity of the office, agency, or department he/she represents; identification of the file of the specified individual to review; justification indicating the purpose of the review; and sign the form certifying the above. The form is maintained in the file reviewed.

Question (7): Who has had custody of these employee records since January of 1993?

Answer (7): Personnel security clearance files are maintained within the Security element of the Office of Inspector General (IG/SEC) by USAID employees assigned to IG/SEC. The files are maintained in two formats.

a. Over 98% of all background files are contained wholly in magnetic media and optical disk form, i.e., all of an individual's background investigation file is in a combination database and optical imaging system. Once an investigation is completed, paper records are scanned into the system and subsequently destroyed. With the exception of on-going investigations, no paper record exists unless specifically printed for review. The database/optical imaging system is physically located in an office suite totally within IG/SEC. During non-duty hours, the suite is alarmed and locked; during duty hours the office is accessible only via an access control procedure under the direct supervision of IG/SEC personnel. The database/optical imaging system is closed and there is no remote access capability, i.e., it is not possible to gain access into the system without physically being in IG/SEC space. The system is accessible only by selected IG/SEC employees who must log into the system by entering a personal password and identification. Back-up files are maintained off-site in a security container whose combination is controlled by selected IG/SEC personnel.

b. All of the background investigative files on IG/SEC personnel and selected senior USAID officials are maintained in paper file format in the security container controlled by the Deputy Assistant Inspector General for Security (DAIG/SEC); the Chief, Information and Personnel Security Division, maintains control of the background file of the DAIG/SEC. In addition, paper records containing classified national security information and the identities of confidential sources are maintained in a security container controlled by the Chief, Investigations Branch of IG/SEC.

Question (8): What were the names of any of your department or agency's personnel involved in authorizing, transmitting, or processing requests for access to background investigation files, or copies or

summaries thereof, during the current administration?

Answer (8): The names of the USAID employees are: Randy Streufert, Dave Dalton, Alan Milne, Rick Prince, John Schaffstall, Gordon Lazerson, Gordon Estes, Annette Richter (now retired) Cathy Farlow (now retired), Edna Coates (now retired), Jean Robinette, Beth Pascarella, Francis Erby, Doris Casteel, and Carla Smith. All of these employees are career civil servant investigators/security officers.

Question (9): Who, inside or outside of your department or agency, has been given access to the background investigation files during the current administration?

Question (10): Who may, consistent with your department or agency's and the administration policies, request access to or copies or summaries of such files? Please provide detail as to each request and its disposition.

Question (11): During the current administration, under what circumstances have background investigation files, or copies or summaries thereof, been turned over or shown to anyone outside of your department or agency, including the White House? Please provide detail as to each such incident.

Answers (9), (10) and (11):

A. USAID personnel security clearance records or portions thereof are released to:

- * An individual requesting access to his/her personnel security clearance file under a Privacy Act request.
- * the Bureau of Diplomatic Security, Department of State for security adjudication for determining access to Sensitive Compartment Information; and to
- * the Security Office, Department of Energy for security adjudication for a Q clearance.

B. USAID personnel security clearance files were reviewed by a representative from the Office of Federal Investigations, Office of Personnel Management (OPM), during an OPM security appraisal of USAID security files.

C. Personnel security clearance records were reviewed to determine individual suitability for employment under Executive Order 10450 criteria. Since January 1993, such suitability reviews have been conducted by:

- * USAID Management for USAID applicants and employees;
- * USAID Assistant Inspector General for Resource Management for USAID Office of Inspector General applicants and employees;
- * the Director of Human Resources, Overseas Private Investment Corporation (OPIC) for OPIC applicants and employees; and
- * the Director for Management Operations, Trade Development Agency (TDA) for TDA applicants and employees.

D. Inherent in the transferability of investigative information (under the policy established in National Security Directive 63) is the necessity for agencies to review the personnel security clearance records maintained by other agencies. Such reviews are conducted to determine an individual's eligibility for a security clearance under Executive Order 10450 criteria. Since January 1993, reviews of individual files have been conducted by federal investigative/security officers, with credentials, conducting personnel security background investigations representing the following departments and agencies:

Central Intelligence Agency
 Defense Investigative Service
 Department of Education
 Department of State (Bureau of Diplomatic Security)*
 Department of the Treasury
 Farm Credit Administration
 Federal Bureau of Investigation
 Office of the Secretary of Defense
 Office of Personnel Management
 Peace Corps,
 Secret Service
 U.S. Information Agency

*A request was received from the White House Security Office for the personnel security clearance file of an individual being considered for a senior State Department position. The request indicated that the file was needed in order for the Secret Service to issue a permanent pass to the White House. The file was not provided. A State Department investigator came to IG/SEC and reviewed the file.

E. Personnel security clearance files may be reviewed in concert with investigations being conducted for federal law enforcement

purposes. Since January of 1993, such reviews have been conducted by criminal investigators with credentials representing the following departments and agencies:

USAID, Office of Inspector General, Investigations
 Department of State (Office of Inspector General)
 Federal Bureau of Investigations
 U.S. Postal Service (U.S. Postal Inspectors)

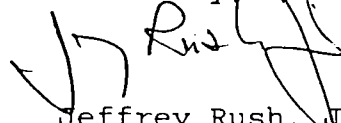
F. Since January 1993, IG/SEC records reveal that 155 personnel security clearance records files have been reviewed by investigators/security officers representing the federal offices, agencies and departments cited above. In each case, the review was in connection with a security clearance background investigation or in concert with investigations being conducted for federal law enforcement purposes.

Question (12): Did any personnel involved in authorizing, transmitting, or processing such requests at any time during this administration raise any objections as to the appropriateness of the requests? Please provide copies of any protests or memoranda pertaining to any objection or protest, and the response, if any.

Answer (12): No; every request to review a personnel security clearance file was made by investigators/security officers representing the federal agencies in connection with a security clearance background investigation or in concert with investigations being conducted for federal law enforcement purposes.

Should you desire additional information please call me at (202) 647-7844 or have a member of your staff contact Corbett M. Flannery, Assistant Inspector General for Security, at (703) 875-4800.

Sincerely,



Jeffrey Rush, Jr.
 Inspector General

Enclosures:

1. § 8A of PL 95-452, Inspector General Act of 1978, as amended in 1981.
2. Executive Order 12968, "Access to Classified Information," issued August 2, 1995.
3. National Security Directive 63, Single Scope Background Investigations, issued October 21, 1991.
4. CFR 32 §2003.20.

5. Chapter 5, USAID Handbook 6.
6. Chapter 6, Records Management, IG/SEC Standard Operating Procedures, Book One.
7. Chapters 4, 5, 6, 7, and 8, IG/SEC/IPS Standard Operating Procedure, Book Three.
8. Chapters 1, 2, and 8, OIG/SEC Special Agent Manual.
9. Chapter 12, Access to and Protection of Records on Individuals, USAID Handbook 18.

cc: AA/LPA, Jill Buckley (w/o enclosures)
AA/M, Larry Byrne (w/o enclosures)
GC, Singleton McAllister (w/o enclosures)
AIG/SEC, Corbett Flannery (w/o enclosures)

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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

AID
EXECUTIVE SECRETARI

1996 JUL 15 P 4 2

July 8, 1996

Honorable J. Brian Atwood
 Administrator
 International Development Cooperation Agency
 2201 C Street, N.W.
 Washington, DC 20523

Dear Administrator Atwood:

As Chairman of the Senate Governmental Affairs Committee, I am concerned by recent allegations concerning the handling of background investigation reports. These allegations appear to describe not only possible violations of the Privacy Act, but also long-standing government practices on handling sensitive materials. Questions have been raised about what the policies and practices have been with respect to these files, and under what circumstances the files have been requested, reviewed, or released.

In the oversight capacity of this Committee, I hereby request that you investigate the following questions and report your findings to me. Your report and any information or statements it includes will be accepted under the provisions of section 1001 of title 18, United States Code. Please report on the following:

- (1) Please transmit a copy of any applicable policies, directives, rules, regulations, or statutes that govern the handling, storage, dissemination, copying, summarizing, transcribing, or disclosure of background investigation files on administration personnel, including personnel from prior administrations or who no longer work for your department or agency.
- (2) Who in your department or agency is responsible for enforcement of these policies, rules, regulations, or statutes?
- (3) During this administration has your department or agency, or has any employee, detailee, fellow, or temporary staff member, violated or attempted to violate these policies, rules, regulations, or statutes?
- (4) At any time during the current administration have your department or agency's policies and practices changed with respect to the handling of background investigation files, or with respect to requests for access to or copies or summaries of background investigation files? Please submit copies of any such changes, the dates of the changes, and the prior versions.
- (5) Has your department or agency kept records on former employees that include background investigation files, or summaries thereof?

Honorable J. Brian Atwood

Page 2

- (6) Do you maintain a record or log of who has had access to these employee records?
- (7) Who has had custody of these employee records since January of 1993?
- (8) What were the names of any of your department or agency's personnel involved in authorizing, transmitting, or processing requests for access to background investigation files, or copies or summaries thereof, during the current administration?
- (9) Who, inside or outside of your department or agency, has been given access to the background investigation files during the current administration?
- (10) Who may, consistent with your department or agency's and the administration policies, request access to or copies or summaries of such files? Please provide detail as to each request and its disposition.
- (11) During the current administration, under what circumstances have background investigation files, or copies or summaries thereof, been turned over or shown to anyone outside of your department or agency, including the White House? Please provide detail as to each such incident.
- (12) Did any personnel involved in authorizing, transmitting, or processing such requests at any time during this administration raise any objections as to the appropriateness of the requests? Please provide copies of any protests or memoranda pertaining to any objection or protest, and the response, if any.

Because the privacy rights of individuals and the security of sensitive government documents are involved, I would appreciate a response to this request within 30 days. Please keep Committee Counsel Doug Fuller, at (202) 224-8866, informed as to your progress. This request is also being sent to your agency's General Counsel. Thank you.

With best wishes,

Cordially,


TED STEVENS
Chairman



U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

April 19, 1983

Senator Orrin G. Hatch
Chairman
United States Senate
Committee on Labor
and Human Resources
Washington, D. C. 20510

Senator Edward M. Kennedy
Ranking Minority Member
United States Senate
Committee on Labor and
Human Resources
Washington, D. C. 20510

Dear Chairman Hatch and Senator Kennedy:

This is in response to your letter of March 23, 1983 reiterating your desire to obtain testimony from the Counsel to the President, Fred F. Fielding, with respect to your ongoing investigation of the process, in January and February of 1981, surrounding the confirmation by the United States Senate, of Secretary of Labor Raymond J. Donovan.

Before responding directly to your request for sworn testimony from the Counsel to the President, I believe that it is appropriate to note that, as I am sure you will agree, the Administration has made every effort to cooperate with your Committee's lengthy investigation of this matter. The Department of Justice, including the Federal Bureau of Investigation, has provided vast quantities of information to your Committee, including in many instances, access to raw data in the Bureau's possession. The Bureau has also answered numerous written questions, provided you with summaries and other data relative to its internal investigations and has made two of its officials available to your Committee at hearings for lengthy sworn testimony regarding this matter. In addition, the White House has provided your Committee with copies of documents in its possession and has prepared and supplied you with a detailed chronology of relevant events. We are not aware of any previous occasion when so much information has been provided by the Executive Branch to a Senate Committee relative to an appointee's confirmation in either the pre- or post-confirmation period.

In addition to the information which the Administration has supplied to you directly, we understand that you have been given access to the fruits of the investigation of Special Prosecutor Leon Silverman, an exhaustive investigation into all allegations regarding Mr. Donovan that consumed months of the time of numerous investigators, involved the assistance of a grand jury, and cost hundreds of thousands of dollars.

In short, we believe that the Administration has been most cooperative with your investigation and that your Committee has been provided an extraordinary and unprecedented quantity of information regarding Mr. Donovan and his confirmation. We, of course, remain willing to assist you and your Committee in any reasonable way.

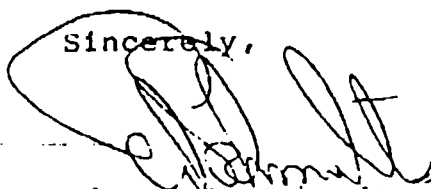
As you know, our concern regarding your desire for the sworn testimony of Mr. Fielding is based upon important principles relative to the powers, duties and prerogatives of the Presidency. We share with previous Presidents and their advisers serious reservations regarding the implications for established constitutional doctrines arising from the separation of powers of a Congressional demand for the sworn testimony of close presidential advisers on the White House staff.

Presidents have historically resisted efforts to obtain sworn testimony from their closest and most immediate advisers on the White House Staff. Congress has customarily honored the President's wishes relative to such matters as a matter of comity toward a respected co-equal branch of government. As you know, these principles do not spring from partisan considerations or any other transitory concerns. The position to which we adhere has been taken consistently by Presidents of either party and has been respected by Congress irrespective of the party in control or the subject matter of the inquiry.

The Counsel to the President serves the President solely and exclusively. He is available for and provides legal advice to the President. His professional responsibility is directly to the President. The President must be able to count on the constant availability of his Counsel, and on the total confidentiality of his services. As an institutional matter, the President cannot permit his Counsel to provide sworn testimony to the Legislative Branch regarding the performance of his duties.

The Administration wishes to continue to cooperate with your Committee's inquiry and we support your effort to bring this inquiry to a close. To accomplish this, if you feel that you need information beyond that already supplied to you relating to the White House's actions during the confirmation process, we have suggested that Mr. Fielding, consistent with the foregoing principles, would be willing to provide written responses to a reasonable number of relevant written inquiries which you may wish to pose in concluding your inquiry. If this alternative is agreeable to you, I urge that you articulate such a set of questions in a letter and I will undertake to arrange for you to receive written responses to those questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'E. Schmultz', is written over a horizontal line. The signature is fluid and cursive.

Edward C. Schmultz
Deputy Attorney General

ORRIN G. HATCH, UTAH, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

MARK R. DISLER, *Chief Counsel*
MANUS COONEY, *Staff Director and Senior Counsel*
CYNTHIA C. HOGAN, *Minority Chief Counsel*
KAREN A. ROBB, *Minority Staff Director*

August 19, 1996

Ms. Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

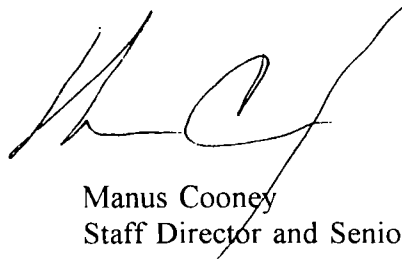
Dear Ms. Sherburne:

On July 3, 1996, Sen. Orrin G. Hatch, Chairman of the Senate Committee on the Judiciary, requested documents relating to the issue of executive privilege. As you know, this request has been pending for more than six weeks and, to date, none of the relevant documents have been provided. I trust these documents will be provided expeditiously and would strongly urge that all of the requested documents be produced no later than August 21, 1996.

On a related note, Chairman Hatch's request should be read to include a copy of document number DF 781498-500, dated 9/16/93, to Thomas McLarty, from Bernard Nussbaum and Roy Neel described as a "Memorandum analyzing legal and policy issues with respect to White House access." I am aware that executive privilege has previously been invoked with regard to this document, but am confident that prompt, good faith discussions will remove any basis for invoking the privilege in this instance, and allow for production of the document by the requested date. Your continued and prompt cooperation is greatly appreciated.

If you have any questions regarding this request, please contact me.

Sincerely,



Manus Cooney
Staff Director and Senior Counsel

OGH:mrr

THE WHITE HOUSE
WASHINGTON

August 15, 1996

BY HAND DELIVERY

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

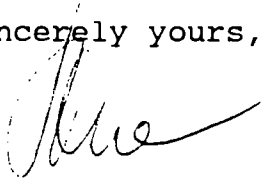
Dear Manus:

As you may know, Mr. Hirshland and Ms. Riley have requested that the White House provide the Judiciary Committee with the enclosed documents: the four letters referenced in Mr. Quinn's May 9, 1996 letter to Chairman Clinger; Chairman Clinger's June 5, 1996 letter to the President; and, the January 11, 1996 subpoena from the House Government Reform Committee. Also enclosed is a July 18, 1996 letter (with attachments) from me to Chairman Clinger that describes the production of the Billy Dale file.

We have additional documents responsive to Chairman Hatch's requests that we are ready to transmit as soon as we have finalized the protocols. I gather that Paul Larkin will be providing comments on our proposal shortly.

Please give me a call if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

cc: Cynthia Hogan, Esq. (w/encl)

THE WHITE HOUSE
WASHINGTON

August 6, 1996

BY FACSIMILE

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Manus:

Enclosed are proposed document protocols for your consideration. We should be able to produce additional material responsive to the Chairman's request early next week. It would be useful if we could agree on protocols by that time. Please give me (456-5116) or Jim Weber (456-2026) a call when you would like to discuss them.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosure

cc: Cynthia Hogan, Esq. (w/encl)

THE WHITE HOUSE
WASHINGTON

August 6, 1996

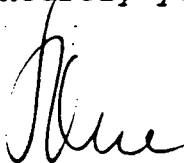
BY FACSIMILE

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

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Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosure
cc: Cynthia Hogan, Esq. (w/encl)

THE WHITE HOUSE

WASHINGTON

July 30, 1996

BY FACSIMILE

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Manus:

Thank you for your letter of July, 23 1996 confirming and elaborating on the agreements and discussion from our July 11, 1996 meeting. I believe with the clarifications you have provided we can move quickly to respond to many of the Chairman's requests. As we explained in our meeting, however, the Independent Counsel requested that we secure the Office of Personnel Security and the room in which the Office of Records Management maintains records archived from OPS. As a result, many of the records that may be responsive to your requests have been unavailable for review.

The Independent Counsel recently has permitted access to the records in ORM and we have begun the process of reviewing those records for material requested by the Chairman. Responsive documents will be provided to you as soon as possible. However, the documents in OPS remain unavailable to us.

With respect to the Chairman's requests for documents related to the Personal Data Statement Questionnaire, you misunderstood if you thought we were refusing to provide this material without an explanation of the Committee's jurisdictional interest. Rather, we asked you to articulate the basis for the Senate Judiciary Committee's inquiry into the questions this White House asks of its employees who serve entirely at the pleasure of the President.

Mr. Chris Emery, who I assume you have in mind when you refer to the premature updating of career employees' FBI background investigations, was not a career employee. Rather, he was an employee appointed under Title 3 of the United States Code. Further, we understand that his reinvestigation was requested in 1993 because records provided to the White House by the FBI omitted information that Mr. Emery had been reinvestigated in 1991. When this error was discovered, Mr. Emery was not reinvestigated in 1993.

Manus Cooney, Esq.
July 30, 1996
Page 2

I apologize for any impression we may have left with you that we would not provide documents to the Committee related to the President's invocation of executive privilege over certain documents subpoenaed by the House Government Reform and Oversight Committee. Although we did ask that you explain the Committee's jurisdiction to investigate White House compliance with a subpoena issued by the other body of Congress, we already have provided you with documents that describe the history of the invocation. In addition, I am enclosing with this letter a description we provided Chairman Clinger of the circumstances under which we located and produced the Billy Dale FBI file and related request to the FBI for Mr. Dale's previous reports. Please let me know if you need anything further in connection with this request.

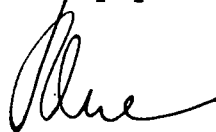
Likewise, we have not refused to assist you in locating potential witnesses. Indeed, we have been providing such information and will continue to do so. However, you did agree to provide a description of the subject matter about which you intended to question these witnesses and the jurisdictional basis for the particular inquiry.

Finally, we cannot retrieve e-mails spanning the time period you have identified -- September 1993 through December 1995 -- in anything short of several months at a cost of well over \$200,000. At a minimum, we suggest that you identify the weeks you consider a priority.

As you know, the Committee's requests for documents are extensive. We already have provided a number of documents to the Committee and we are diligently working to provide additional responsive documents as soon as possible.

Please give me a call if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosure
cc: Cynthia Hogan, Esq. (w/encl)

THE WHITE HOUSE

WASHINGTON

July 18, 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:

We understand you have indicated an interest in the circumstances under which the White House identified and produced to your Committee Billy Dale's FBI file.

In the course of gathering documents responsive to your request for all White House records related to Billy Dale, in December 1995, Tom Taggart of the Office of Records Management (ORM) located a file that had been archived by the Office of Personnel Security (OPS) containing Billy Dale's FBI background file. Mr. Taggart notified then-Associate Counsel Natalie Williams of the file. Because we already had notified your staff that we did not understand the Committee to be requesting confidential personnel material that otherwise would be subject to the Privacy Act, Ms. Williams did not retrieve the file at that time. Mr. Taggart's communication with Ms. Williams on this subject is reflected in the attached document from ORM.

In mid-February, the Counsel's Office hired Wendy White as a Special Associate Counsel to assist in completing our response to your Committee's January 11, 1996 subpoena, which included another request for confidential personnel material. Ms. Williams informed Ms. White about the Billy Dale file maintained by ORM so that Ms. White would know to retrieve it should the Committee insist that we produce such material. When we reviewed with you the outstanding document issues at our meeting on February 15, 1996, we proposed that the matter of personnel material might be resolved in a manner that protected the privacy of the individuals involved, including Billy Dale, by your review of the material in camera. At that time, although Ms. Williams was aware that the FBI file existed, no one had reviewed it.

Hon. William Clinger, Jr.
July 17, 1996
Page 2

Our proposal to you was unanswered until May 2, 1996, when you implicitly rejected our request for sensitive treatment of personnel material by insisting that the White House either produce all documents responsive to the Committee's subpoena or formally assert executive privilege. On May 9, 1996, the President asserted a protective claim of executive privilege over all material called for by the Committee's subpoena that had not yet been produced, including the personnel material. At that time, the Billy Dale FBI file still had not been retrieved from ORM or reviewed by anyone from the Counsel's Office.

The protective assertion of privilege, a blanket invocation asserted in accordance with procedures adopted in the Reagan Administration, gave us an opportunity to formulate a recommendation on the assertion of executive privilege with respect to each particular document. We undertook this process with lawyers from the Department of Justice, who reviewed those materials we had preliminarily identified as being candidates for an assertion of privilege. Even before consulting with DOJ, however, we agreed that we would not recommend a claim of executive privilege over personnel material. Accordingly, there was no need to review this material with DOJ and we did not do so.

On May 21, 1996, Ms. White obtained the FBI file from ORM. No one reviewed the file before May 21, 1996, which was after the decision to produce personnel material already had been made. Under Ms. White's supervision, the file -- which included the form submitted to the FBI requesting Mr. Dale's previous reports -- was copied and produced to the Committee on May 30, 1996 with the other documents we had designated for production.

In his July 4, 1996 column in the New York Times, William Safire reports that the White House story has Ms. White removing the Billy Dale FBI file from the stack of documents we anticipated producing to the Committee before providing the stack for my review. As it turns out, the Billy Dale FBI file was not among the documents I reviewed because the stack was provided to me before Ms. White retrieved the file from ORM. Although we had discussions, as described above, about the production of personnel material generally, we had no discussion whatsoever about whether the Billy Dale FBI file should be produced.

Hon. William Clinger, Jr.
July 17, 1996
Page 3

At the request of your staff, enclosed is a statement from Ms. White describing her involvement in these matters. Please let me know if you have further questions.

Sincerely yours,

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

Jane C. Sherburne
Special Counsel to the President

Enclosures

cc: Hon. Cardiss Collins (w/enclosures)

Today on 12/27/95 Janet White Williams
about Billy Dale's FBI (retired) ^{background} report that ^{check} voting
we received with other files from Craig
Livingstone. She said that this file
involved personal & personnel privacy
issues - would not be sent to the Committee,
nor would it be released. She is not
interested in seeing file.

Tom Taggart Jr.

12/27/1995

July 18, 1996

STATEMENT OF WENDY S. WHITE
CONCERNING PRODUCTION OF BILLY DALE FBI FILE

I was hired as a Special Associate Counsel in the White House Counsel's Office to assist in the production of documents in response to the January 11, 1996 subpoena to the White House from the House Committee on Government Reform and Oversight related to the Travel Office matter. I started work on February 14, 1996. At that time, much of the work had been completed for the production; but there was more to do.

Shortly after I started, Natalie Williams, who had been working on the subpoena response, returned to private practice. Before she left, she provided me with certain information I needed in order to complete the production. During this transition period, she advised me that the Office of Records Management maintained a Billy Dale file responsive to the subpoena that should be retrieved from ORM if the Committee and White House reached agreement that the file should be produced for in camera review or otherwise.

On February 26, 1996, the White House produced the bulk of the remaining documents to the Committee, with a transmittal letter identifying certain outstanding issues, including the treatment of personnel material. In the letter, the White House invited the Committee to discuss this issue further to reach an accommodation. Since the issue of the treatment of personnel file was unresolved, I did not retrieve the Billy Dale file at that time.

On May 2, 1996, Chairman Clinger advised the White House that all outstanding documents responsive to the January 11, 1996 subpoena must either be produced or identified as subject to a claim of executive privilege. Consequently, on May 21, 1996, I had the Office of Personnel Security retrieve the Billy Dale file from the Office of Records Management. At my direction, the file was then copied and prepared for production. I gave the original file back to the Office of Personnel Security on May 23, 1996 to be returned to ORM. The White House produced the Billy Dale file to the Committee, together with the other documents, on the morning of May 30, 1996.

Wendy S. White

THE WHITE HOUSE

WASHINGTON

July 30, 1996

BY FACSIMILE

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

Dear Manus:

Thank you for your letter of July, 23 1996 confirming and elaborating on the agreements and discussion from our July 11, 1996 meeting. I believe with the clarifications you have provided we can move quickly to respond to many of the Chairman's requests. As we explained in our meeting, however, the Independent Counsel requested that we secure the Office of Personnel Security and the room in which the Office of Records Management maintains records archived from OPS. As a result, many of the records that may be responsive to your requests have been unavailable for review.

The Independent Counsel recently has permitted access to the records in ORM and we have begun the process of reviewing those records for material requested by the Chairman. Responsive documents will be provided to you as soon as possible. However, the documents in OPS remain unavailable to us.

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Manus Cooney, Esq.
July 30, 1996
Page 2

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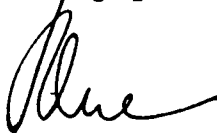
Likewise, we have not refused to assist you in locating potential witnesses. Indeed, we have been providing such information and will continue to do so. However, you did agree to provide a description of the subject matter about which you intended to question these witnesses and the jurisdictional basis for the particular inquiry.

Finally, we cannot retrieve e-mails spanning the time period you have identified -- September 1993 through December 1995 -- in anything short of several months at a cost of well over \$200,000. At a minimum, we suggest that you identify the weeks you consider a priority.

As you know, the Committee's requests for documents are extensive. We already have provided a number of documents to the Committee and we are diligently working to provide additional responsive documents as soon as possible.

Please give me a call if you have any questions.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosure
cc: Cynthia Hogan, Esq. (w/encl)

WC

THE WHITE HOUSE
WASHINGTON

July 25, 1996

BY HAND DELIVERY

Manus Cooney, Esq.
Staff Director & Senior Counsel
Judiciary Committee
United States Senate
Washington, D.C. 20510

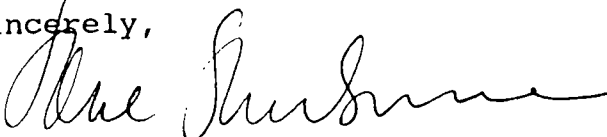
Dear Manus:

During our meeting on July 11, 1993, I agreed to provide to you copies of the correspondence with the House Government Reform Committee that reflected the protocols established by that Committee for handling White House documents. I also agreed to provide copies of the correspondence describing the White House's assertion of executive privilege in connection with documents under subpoena by that same Committee. Enclosed are those letters.

I have also received your letter of July 23, 1996. Please be assured that we are working on producing the documents we agreed to provide to the Judiciary Committee. I will respond further to your July 23, 1996 letter under separate cover.

Please give me a call if you have any questions.
Congratulations on the new baby!

Sincerely,



Jane C. Sherburne
Special Counsel to the President

Enclosures

cc: Cynthia Hogan (with enclosures)

ORRIN G. HATCH, UTAH, CHAIRMAN

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ALAN K. SIMPSON, WYOMING
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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

MARK R. DISLER, *Chief Counsel*
MANUS COONEY, *Staff Director and Senior Counsel*
CYNTHIA C. HOGAN, *Minority Chief Counsel*
KAREN A. ROBB, *Minority Staff Director*

July 23, 1996

Ms. Jane Sherburne
Special Counsel to the President
The White House
Washington, D.C. 20500

Dear Ms. Sherburne:

Chairman Orrin Hatch transmitted a letter to Chief of Staff Leon Panetta dated July 3, 1996 requesting information and documents related to the acquisition by the White House of personal information and background reports on several hundred individuals. The letter requests these documents be made available to the Senate Judiciary Committee no later than July 12, 1996. In an attempt to accomodate your request for guidance, committee staff met with you and other representatives of the White House on July 11, 1996. To date, only portions of Chairman Hatch's request have been complied with. Hopefully, this letter can be of some assistance in your effort to comply with his request.

At the outset, allow me to respond to your objections to questions (P), (Q) and (R) which relate to the White House "Personal Data Statement Questionnaire" and the assertion of executive privilege over certain documents subpoenaed by the House of Representatives. It is your position that the White House is under no obligation to provide the Committee with the documents requested in these particular questions. The Chairman does not share your view. Rather, he believes the Committee has a legitimate interest in this material such that in the absence of an assertion of privilege the White House must provide it. Accordingly, I trust the White House will either produce the responsive documents or indicate the basis on which it refuses to do so.

As you know, the White House has acknowledged that FBI background files were improperly obtained by the White House on an enormous number of individuals, many of whom were high ranking officials from former Administrations and from the opposite political party of the President. The number of files sought was apparently greater than 900, and we have received no assurance that all improperly obtained files have been identified. For almost a month, executive privilege was invoked over a document that eventually, when provided to Congress, led to the Administration's disclosure of this massive invasion of privacy.

The improper obtaining of these files took place at the same time as the White House apparently was updating some career employees' FBI prior background investigations prematurely and seeking other sensitive information from these career employees that had never before been requested of them and that the First Amendment arguably bars the White House from requesting. It also took place at the same time as the White House had an unusually large backlog of uncleared appointees of the new Administration whose FBI background investigations had apparently either not been initiated, or not been fully adjudicated. Chairman Hatch is seeking the requested material in order to assist with the Committee's investigation of these matters. Among other grounds, the Committee's interest

in these matters stems from its oversight jurisdiction over the Department of Justice and the Federal Bureau of Investigation, and its legislative responsibilities with respect to civil liberties, government information, and civil and criminal proceedings. In that regard, the Committee clearly has jurisdiction to inquire whether the White House improperly invoked executive privilege in order to conceal the request for and receipt of background summaries.

More specifically, the existing Executive Branch procedures for responding to Congressional requests for information were implemented by President Reagan in 1982 and, according to White House Counsel Jack Quinn, adopted by President Clinton (See, Letter from White House Counsel Jack Quinn to Congressman William Clinger, May 8, 1996, page 5). These procedures provide that it is the policy of the Executive Branch to "comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch." (Presidential Memorandum to the Heads of Executive Departments and Agencies, November 4, 1982 .) It has long been the Executive Branch's legal position that it has a legal obligation to provide information which Congress requests in appropriate instances. 5 Op. Off. Leg. Coun. 27 (1981); 4B Op. Off. Leg. Coun, 627 (1980). Accordingly, it is my reading that, absent the assertion of a privilege or some other legal justification, the White House is obligated to provide the documents requested by the Committee.

You have also refused to provide these documents to the committee citing the Judiciary Committee's lack of jurisdiction over these particular issues. Indeed, the White House Counsel's Office recently notified Committee staff that it would not cooperate in providing White House witnesses for interviews until "jurisdictional justification" for individual witnesses is satisfied. Committee staff has previously provided your office with a list of possible Executive Branch witnesses. The "jurisdictional justification" for interviewing each of these witnesses is that the Committee has reason to believe that each of them may have information that would advance its investigation.

As outlined above, the White House is obligated to provide Congress with information related to incidents surrounding its unauthorized acquisition, use, and handling personal background summaries. Although the Executive Branch has no standing to question the jurisdiction of a particular Senate Committee, I want to respond to your suggestion that the Judiciary Committee does not retain jurisdiction over these matters. Senate Rule 25 provides that the Judiciary Committee has jurisdiction over all matters related to government information, civil liberties, and revision and codification of the statutes of the United States. As well, the Committee has always had primary oversight and legislative jurisdiction over the Department of Justice - which played a significant role with respect to the executive privilege matter - and its respective agencies, of which the FBI is one.

With respect to your inquiry regarding the scope of material requested in questions (5) and (D) on page 2, I want to reiterate what you were told during our meeting: namely, that the Committee never intended that personal information contained, or collected, with respect to the completion of an SF-86 form or personal data statement questionnaire be considered within their scope. Accordingly, all requests for documents do not encompass any SF-86 form or similar background check form. Personal background matters should be redacted from all other documents related to background-check follow-up communications and personal data statement questionnaires. We do appreciate, however,

your willingness to construe broadly the Committee's document request, and we hope that you will follow through on that approach to the Committee's letter.

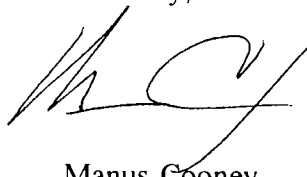
In addition, we agreed to honor your request that, with respect to question (D), that the White House not be required to conduct another, duplicative search for documents already requested and provided to the House Government Reform and Oversight Committee. Accordingly, copies of documents previously provided to the House committee pursuant to a request that is substantively similar to question (D), will suffice. You agreed, however, that the White House would search for information that was not the subject of the House request and that a search of the files of those individuals who were not covered by the House request would be conducted (i.e., David Watkins, Christine Varney, etc.).

With respect to the issue of e-mail retrieval, I appreciate the difficulty the White House has had in complying with previous requests from other committees. You have requested that the Committee provide you with a limited number of names during specific time periods in order to more efficiently comply with our e-mail request. Accordingly, the Committee requests all responsive e-mails to or from those individuals listed in question (D) of Sen. Hatch's July 3 letter for the period commencing September 1, 1993, and ending December 31, 1995.

With respect to question (S) relating to the White House computer system, I agreed that this particular inquiry could be deferred until the search for other documents requested by the Committee has been completed.

I hope that this settles any questions that you might have had with respect to Sen. Hatch's July 3 letter. As you know, the Committee is seeking to complete its work as expeditiously as possible. Our original deadline for production has passed. It is necessary that the Committee receive these documents no later than July 29, 1996. Your continued assistance in this important matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Cooney', with a stylized flourish at the end.

Manus Cooney
Staff Director & Senior Counsel

MC: mcm

cc: Cynthia Hogan
Minority Chief Counsel

THE WHITE HOUSE

WASHINGTON

July 19, 1996

MEMORANDUM FOR JANE SHERBURNE
WENDY WHITE

COPIES TO: DAVID FEIN
TREY SCHROEDER
KATHI WHALEN

FROM: Peter Erichsen 

SUBJECT: **FBI Waiver Form**

As each of you knows, the Judiciary Committee has requested copies of the various forms that we forward to candidates for judicial nominations. The request is in connection with a review by the Committee of its own questionnaire for judicial nominees.

We are providing to the Committee a copy of the entire package of forms that we ask candidates to complete. The package includes the SF-86 and two sets of instructions by which we ask candidates to vary the standard instructions to the SF-86 (principally by making some time periods longer than called for by the FBI). The package also includes the new form of waiver for White House-initiated background investigations. Copies of these particular forms are attached for the information of Jane and Wendy.

THE WHITE HOUSE
WASHINGTON

Date _____

To: Federal Bureau of Investigation

Attn: _____

From: The White House

☐ Office of Personnel Security

☒ White House Counsel's Office

Subject's Full Name _____

Other names used _____

Social Security Number _____ Date of Birth _____ Place of Birth _____

Permanent Address _____

Current Employer _____

☒ I hereby authorize the FBI to provide the information specified below to the White House.

(Signature)

(Date)

Request of FBI (Subject's consent or written explanation from White House Counsel is required for any request seeking copies of, or information from, FBI files.)

☐ Name/Indices check

☐ Expanded name check

☐ Copy of previous report

☒ Full field investigation ☒ Level 1 ☐ Level 2 ☐ Level 3

☐ Limited update investigation

☐ Other (specify) _____

The applicant is being considered for:

☐ Presidential appointment

☐ White House employee ☐ detailee ☐ intern ☐ volunteer

☐ Presidential recognition

☐ Other (specify) _____

Attachments: ☐ SF-86 ☐ SF-86 Supplement ☐ SF-87 Fingerprint Card

Remarks/special instructions: _____

I certify, subject to 18 U.S.C. Section 1001, that the above is sought for official purposes only and I understand that any unauthorized disclosure may be a violation of the Privacy Act, 5 U.S.C. Section 552a.

Requested by: _____

This request has been reviewed and approved by the White House Counsel's Office.

Approved by: _____

White House Counsel's Office

1 - Original - To FBI

2 - Canary - To FBI (Office of the General Counsel)

3 - Pink - To FBI (Return to White House)

4 - Gold - White House Copy

THE WHITE HOUSE
WASHINGTON

MEMORANDUM

TO: PRESIDENTIAL APPOINTMENTS
DEPARTMENT OF JUSTICE

FROM: OFFICE OF COUNSEL TO THE PRESIDENT

SUBJECT: ADDITIONAL INSTRUCTIONS FOR COMPLETING THE
STANDARD FORM 86 (SF-86)

Please provide answers to the SF-86 that reflect your entire adult life (i.e. since age 18). Do not limit your responses to 5 to 15 years, particularly when answering questions 9-11, 23, and 25. This requirement is applied to all senior-level Department of Justice Presidential appointments completing the SF-86.

If you have any questions, please do not hesitate to contact the Counsel's Office.

**Instructions for Completing Standard Form 86,
"Questionnaire for Sensitive Positions"**

IT IS IMPERATIVE THAT THE FOLLOWING INSTRUCTIONS BE READ AND FOLLOWED PRIOR TO COMPLETION OF THE STANDARD FORM 86 (SF-86).

ALTHOUGH MANY OF THE QUESTIONS ON THE SF-86 ASK YOU TO ANSWER LOOKING BACK 7 YEARS, YOU MUST ANSWER LOOKING BACK TO YOUR 18TH BIRTHDAY.

As a prospective Presidential appointee or an individual applying for access to the White House complex, it will be necessary for you to provide additional information to that requested on the SF-86. It is essential that all information be provided in as much detail as requested in order to ensure that the FBI is able to conduct a thorough and complete investigation. Ambiguous and incomplete information will impede the investigation and will cause valuable time to be lost in the investigative process.

GENERAL INSTRUCTIONS

- Although the instructions on the SF-86 indicate that you may legibly print your answers, you must type this form and all attachments.
- Do not abbreviate the names of cities. The inclusion of zip codes is particularly helpful.
- Be specific; exact and complete dates, names, addresses, and explanations of answers will be helpful for the expeditious handling of the investigation. When you have completed the form, please review it for thoroughness and continuity.

SPECIFIC INSTRUCTIONS

8. **Citizenship:** If you are a U.S. citizen other than by birth, also execute the "Immigration Addendum to the SF-86."
9. **Where You Have Lived:** If a residence is in an apartment complex, include the name of the complex and the specific unit number. If the residence was leased or rented, include the name of the individual in whose name the rental agreement or lease was established. Please answer this question since your 18th Birthday.
10. **Where You Went to School:** Although it asks you to list schools starting with the most recent and working back 7 years, please list all education received including High School.
11. **Your Employment Activities:** Provide complete addresses (street/city/state/zip code) for each employment and job description listed. If government employment or employment by some other large organization is to be listed, indicate the department, bureau, division and section, or specific subdivision.

Include all periods of unemployment, self-employment, volunteer employment, or internships back to your 18th birthday. Provide names, complete addresses and telephone numbers of persons who can verify periods of unemployment or self-employment, to include

individuals employed by you, landlords, friends, cohabitants, competitors, or clients.

12. **People Who Know You Well:** Also please provide complete business addresses (including name of business), and business telephone numbers.
14. **Your Relatives and Associates:** Although the SF-86 requests only the country of birth, also provide the city and state or city and country. If relatives live overseas, please indicate whether or not they are with the military. Provide their complete address, including city and country. Do not list APO or FPO address.
- Include the full name, complete date of birth, and place of birth (city and state) of all individuals who presently reside in your household.
- If any relatives or cotenants were born outside the United States and/or are a U.S. citizen other than by birth, execute the "Immigration Addendum to the SF-86."
16. **Your Military History:** If you are a member of a military reserve component or National Guard unit, list the organization, its location, the name of your immediate officer and telephone number, if known.
20. **Your Selective Service Record:** If you have registered with the Selective Service, you must include your registration number. Inquiries into your registration can be directed to the Selective Service at 708-688-6888.
22. **Your Employment Record:** If you have ever been denied employment while undergoing or upon completion of a background investigation or polygraph examination, please identify prospective employer and date and reason for voluntary/involuntary withdrawal from consideration.
- 23F. **Your Police Record:** Although the SF-86 requests information within the last 7 years, list all arrests, charges and convictions since your 18th birthday (except traffic fines of less than \$150.00).
- 24/25. **Use of Illegal Drugs and Drug Activity/Your Use of Alcohol:** Do not limit your responses to these questions to the last 7 years. Responses must include information back to your 18th birthday. If you have ever abused any legal or prescription drug to the point of dependency, also list. In addition, list treatment for drug or alcohol dependency.
- 27/28. **Your Financial Record/Your Financial Delinquencies:** If a collection procedure has ever been instituted against you by Federal, state or local authorities, please give full details. If you received financial aid during college, state whether or not such obligations have been satisfied. In addition, list any incidents of bankruptcy in the last 15 years.

If you have any questions, please call the White House Counsel's Office at (202) 456-6229.

U.S. SENATOR PATRICK LEAHY

VERMONT

STATEMENT OF SENATOR PATRICK LEAHY AT HEARING ON WHITE HOUSE ACCESS TO FBI FILES

July 18, 1996

A principal purpose of our oversight hearings is to protect the constitutional rights of Americans. I respect a witness's right to rely on the Fifth Amendment privilege against self-incrimination guaranteed by our Constitution, as the Chairman did when Mr. Marceca first asserted it on June 28th.

The right against self-incrimination guaranteed in our Bill of Rights is virtually unique to our country and our belief in limited government. Together with our strong tradition that people are innocent until proven guilty, it requires the Government to prove that a crime has occurred and that the defendant is legally responsible before the Government can punish. These rights are bulwarks that protect each of us and must be faithfully observed.

It is appropriate that we permit the witness, at his request, to assert his constitutional right in closed session. No one is interested in embarrassing Mr. Marceca or burdening his exercise of a constitutional right.

The inquiry in which we are engaged questions the use of Government power and whether any senior officials abused their position to get FBI files they had no business having. So far, the unrebutted testimony is that neither the President nor Vice President or, for that matter, the First Lady requested that the FBI summaries at issue be requested. The unrebutted evidence is that this White House had no "enemies list" and did not assemble these file summaries in order to attack anyone politically.

It would be ironic, indeed, for us to trample the rights of our witnesses in order to further this inquiry. I remember a time four decades ago in this country when congressional committees abused their power by summoning citizens to public hearings to brand them as Fifth Amendment Communists and destroy families through accusation and innuendo. I also recall that Vermont's Ralph Flanders was one of the first to stand up to the repressive tactics of Joseph McCarthy. Vermont's and our country's great tradition is to protect our freedoms by upholding the Bill of Rights. Thus, it is without negative inference that I accept Mr. Marceca's claim of legal and constitutional privilege, as I did when an FBI agent asserted his privilege during the Ruby Ridge hearings last year.

JUL 18 '96 15:40 FR

TO 94367964

P.03/05

That being said, I want to make clear that all of us wish that Mr. Marceca would agree to answer our questions, just as Craig Livingstone, Lisa Wetzl, and other White House employees have agreed to do. Had he been willing to testify, I believe that Mr. Marceca might have cleared up many questions we all have about what happened and why he requested background summary reports from the FBI on former employees of Republican administrations.

At our hearing on June 28--when Mr. Marceca, through his counsel, first asserted his Fifth Amendment privilege--we had hoped to give him a full and fair opportunity to respond to questions about what had happened. He is, after all, the key person in the White Office of Personnel Security involved in this matter. Apparently Mr. Marceca was the person who was assigned the task of updating the White House personnel files, who made the requests to the FBI for summary reports, who received the FBI summaries, and who then put the summaries in labeled files in the Personnel Security office.

In light of the key role he played, I appreciate why the independent counsel would strenuously object to this Committee granting immunity to Mr. Marceca. If anyone was instrumental at the White House in obtaining FBI background summaries on former Republican White House employees, it was the person making the actual requests, and that person appears to be Mr. Marceca.

I would have liked the opportunity to get answers from Mr. Marceca. I had intended to ask him the following questions:

o Does he have any information whatsoever contrary to the un rebutted testimony in this hearing that the President, the Vice President, the First Lady and former White House counsel Vince Foster never asked anyone in the Office of Personnel Security to obtain FBI files on former White House employees from Republican Administrations?

o Along the same lines, does Mr. Marceca have any information whatsoever contrary to the un rebutted testimony in this hearing that no one at the White House ever referred to the "list" used to request FBI files as an "enemies list", "friend or foe list", "actual or potential campaign material"?

o Did Mr. Marceca use the same Secret Service list for the update project the entire time he worked on it, or did he ever endeavor to obtain the most recent list?

o Did Mr. Marceca take any steps to assure himself that the list he was using was current? For example, did he ever cross-check the names on the project update list with any other list, including other lists provided by the Secret Service?

JUL 18 '96 15:40 FR

TO 94567964

P.04/05

o Did Mr. Marceca recognize any names on the list, including the names of James Baker, or Marlin Fitzwater, that raised any question in his mind about whether the list was current and whether person named on the list should have access to the White House? If he had any such questions, did he consult with anyone about them?

o Has he received a letter or other indication from the Independent Counsel that he is the target of a grand jury investigation, and if so, for what offenses?

Unfortunately, we will not hear his answers to these and other important questions today. And, I think it unlikely we will hear from him in the near future. I appreciate that the Chairman has reached the conclusion that Mr. Marceca has waived his Fifth Amendment rights by agreeing to testify under oath before a grand jury, and before a House Committee looking into these matters. I think this conclusion is doubtful, and do not think that Mr. Marceca has waived his Fifth Amendment rights.

Courts are rightfully reluctant to find that a witness has waived a constitutional privilege. This is particularly true in situations like this one where new documents are coming to light, new allegations are being made and circumstances are changing day to day. For example, I understand that, in addition to interviewing employees of the White House with whom Mr. Marceca worked, the Chairman's staff has interviewed a former White House usher and GAO auditors and asked questions about Mr. Marceca. This inquiry appears to know no bounds. Given the ever-changing subject matter of the Committee's inquiries, it is understandable that Mr. Marceca and his attorney would have little confidence about the subject matter of the questions to which he would be asked to respond.

In addition, even if prior testimony has been given, a witness cannot be required to repeat testimony that might be harmful or risk further incrimination. I recall that, during the Ruby Ridge hearings, at least one witness asserted his Fifth Amendment right even after he had voluntarily testified at a criminal trial and after granting extensive sworn interviews to the FBI and the Department of Justice about the same matters before the Subcommittee. Given the referral of this matter to Independent Counsel Kenneth Starr, whose legal and extracurricular activities are openly and aggressively partisan, I appreciate any concern Mr. Marceca may have about whether he may be targeted for criminal investigation or prosecution for partisan purposes.

JUL 18 '96 15:41 FR

TO 94567964

P.05/05

There is no question in my mind that given this politically-charged setting, the referral of this matter to an independent prosecutor, and the evolving circumstances, Mr. Marceca has the right to claim the protection of the Fifth Amendment, despite his prior testimony on the matter.

THE WHITE HOUSE
WASHINGTON

July 14, 1996

The Honorable Judd Gregg
Chairman, Subcommittee on Commerce,
State, Justice and Judiciary
Committee on Appropriations
U. S. Senate
Washington, D.C. 20510

Dear Chairman Gregg:

This letter responds to your letter to the President received at the White House on June 13, 1996.

Your letter inquires about the procedures and events surrounding FBI files that were mistakenly requested by the White House. The White House is cooperating fully with the investigation of the Office of the Independent Counsel into this matter. As a result, we are not in a position to answer many of your questions because we have been asked by the Independent Counsel to secure many of the relevant records. A number of your questions, however, are addressed in the FBI General Counsel's report of June 14, 1996. Please let me know if you would like us to provide you with a copy.

As you may know, at the end of every Administration, all files are removed from the White House for archiving with the outgoing President's official records. As a result, at the start of a new Administration, the Office of Personnel Security has no background information on any "holdover" employees. According to the FBI report and testimony elicited in congressional hearings, all new administrations, for many years, have gone through a process of recreating the FBI files for holdover employees. The longstanding practice for accomplishing this has been by requesting, on an unsigned form in the name of the current Counsel to the President, copies of previous FBI reports. Typically, these reports are summaries of prior investigations and not the raw data that is found in a complete FBI file.

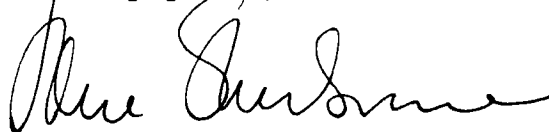
After the discovery that the White House had mistakenly ordered copies of previous reports for many employees who were no longer at the White House, important changes were quickly made. These new procedures, which are as rigorous as they are unprecedented, include requirements that:

Hon. Judd Gregg
July 14, 1996
Page 2

- control of the White House background investigation process be placed in the hands of a personnel specialist who is a career, non-political employee;
- current, express, written consent of an individual be obtained before the White House seeks his or her background investigation information from the FBI;
- the Counsel to the President or a specifically designated Counsel's Office attorney approve each White House request to the FBI for background information;
- the security or vetting officer who initiates the request certify that the request is made for official purposes only; and
- access to background investigation information is authorized only to those White House employees designated in writing by the Chief of Staff and the Counsel to the President.

Shortly after these new procedures were announced, the Chief of Staff also announced that Charles Easley, a career employee with a distinguished record in security clearances and the current Security Officer for the Executive Office of the President, would also take over the security functions for White House personnel. I am enclosing copies of the announcements of these changes.

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 14, 1996

STATEMENT BY JACK QUINN, COUNSEL TO THE PRESIDENT

We have today put in place a series of reforms governing the way in which the White House requests background information from the FBI.

These reforms include a provision requiring that a current consent form signed by the individual who is the subject of the background check be provided to the FBI before background information can be released to the White House. These reforms will impose rigorous procedures to protect both the privacy of individuals and the integrity of this process.

In arriving at these reforms, my office communicated our intentions to the FBI Counsel's Office to ensure that our efforts would work well with any changes being contemplated by the FBI. We have been told by the FBI that they believe our reforms, along with reforms they will be announcing today, will operate together effectively.

-30-30-30-

THE WHITE HOUSE
WASHINGTON

June 14, 1996

MEMORANDUM FOR LEON PANETTA
CHIEF OF STAFF

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: WHITE HOUSE REQUESTS TO THE FBI

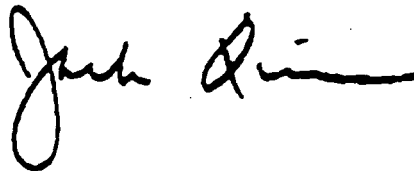
As you know, the White House has historically requested information from the FBI in order to evaluate the suitability of persons for Presidential appointments, nominations and recognition, employment at the White House, and access to the White House. In light of recent events, I have instituted the following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

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

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

* * *

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



THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 19, 1996

STATEMENT BY CHIEF OF STAFF LEON E. PANETTA

Today the White House is restructuring its personnel security functions by incorporating them into the Security Office of the Executive Office of the President (EOP). This office, staffed entirely by career professionals, today carries out these functions for most of EOP, and does so efficiently and effectively. It is headed by Charles "Chuck" Easley, a long-time career professional.

It is clear that the procedures in place for some three decades, through seven Administrations, at both the White House and the Federal Bureau of Investigation, were not adequate.

This restructuring, recommended by the White House Counsel, when combined with the reforms already put in place by the White House Counsel and the Federal Bureau of Investigation, will ensure that these essential security procedures are carried out efficiently, by career professionals, in a manner that protects individual privacy.

-30-30-30-

THE WHITE HOUSE
WASHINGTON

June 18, 1996

MEMORANDUM FOR LEON PANETTA
CHIEF OF STAFF

FROM: JACK QUINN
COUNSEL TO THE PRESIDENT

SUBJECT: WHITE HOUSE OFFICE OF PERSONNEL SECURITY

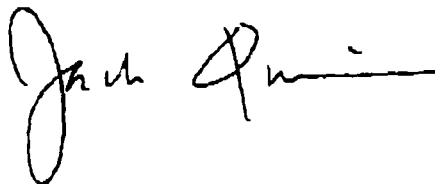
At present, the White House Office of Personnel Security conducts personnel security operations for the White House Office, the Office of the Vice President, the Office of Policy Development, and the Executive Residence. The Executive Office of the President (EOP) Security Office conducts personnel security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

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

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

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

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

A handwritten signature in dark ink, appearing to read "Jack Quinn". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. resume	Charles Easley. (1 page)	00/00/1996	b(7)(C), b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Jane Sherburne
OA/Box Number: CF 396

FOLDER TITLE:

FBI - Senate [5]

2006-1066-F

vz3597

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

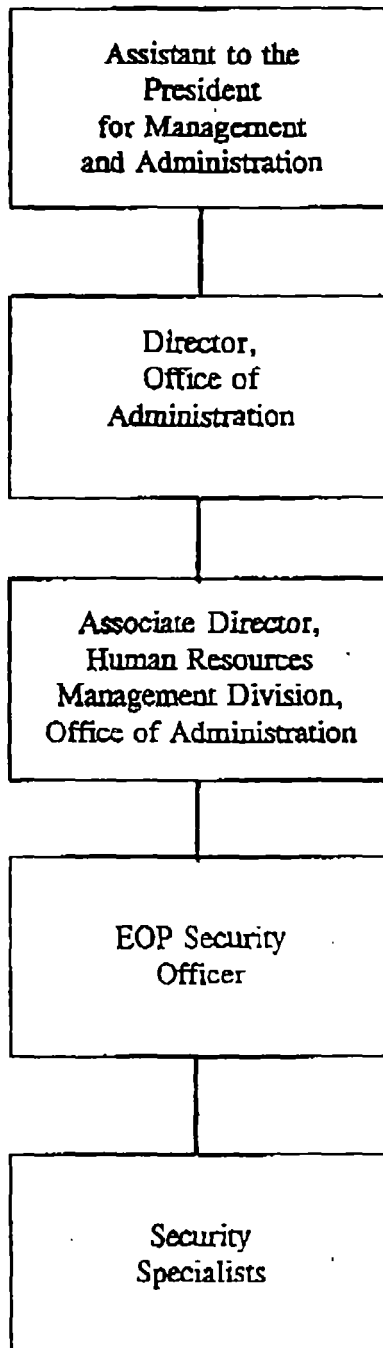
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**Executive Office of the President Security Office
Organization Chart**



EXECUTIVE OFFICE OF THE PRESIDENT CLEARANCE PROCESS

Hiring office notifies EOP Security Office of intention to hire employee

Consent form signed by employee and General Counsel (or designee) of hiring office

EOP Security Office forwards consent form to FBI to request initial name check

EOP Security Office conducts pre-employment security interview,
reviews information received from FBI

EOP Security Office informs hiring office that individual has cleared
pre-employment security screening

Clearance forms (SF-86, etc.) sent to individual, completed, and returned to
EOP Security Office

EOP Security Office forwards consent form, clearance forms, and request for
background investigation to FBI

FBI returns full-field background investigation to EOP Security Office
(usually within 10-12 weeks)

EOP Security Office provides results of background investigation to
General Counsel of hiring office for suitability determination

EOP Security Office forwards background investigation to
Secret Service for access pass approval

Background investigation/name check is secured in locked files in
alarmed EOP Security Office

*draft***RESOLUTION**

Be it resolved that, pursuant to its authority under Rule 26 of the Standing Rules of the Senate, the Senate Committee on the Judiciary hereby authorizes its Chairman to issue to Anthony B. Marceca of Odenton, Maryland the subpoena attached as Exhibit 1 to this resolution, which commands Mr. Marceca to appear before the Committee to testify to what he may know relative to matters under Committee consideration and to produce certain documents within his possession, custody, or control.

Attachment 1

draft

UNITED STATES OF AMERICA

Congress of the United States

To Anthony B. Marceca522 Camelot CourtOdenton, MD 21113, Greeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to
 appear before the Committee on the Judiciary
 of the Senate of the United States, on Thursday July 18, 1996,
 at 10:00 o'clock a.m., at their committee room SD-226

then and there
~~to testify what you may know relative to the subject matters under consideration~~
~~by said committee~~

produce the documents described in attachment A

Hereof fail not, as you will answer your default under the pains and pen-
 alties in such cases made and provided.

To any agent of the United States Senate
 to serve and return.

Given under my hand, by order of the committee, this
16th day of July, in the year of our
 Lord one thousand nine hundred and ninety-six.

Chairman, Committee on the Judiciary

Attachment A

All documents, and all computer disks containing documents, regardless of format, including but not limited to, e-mail, electronic files, electronic backup and dump files, memoranda, correspondence, notes, records, reports, files, any material in any other medium, including drafts of the foregoing, that refer, reflect, or relate in any manner to the following:

- (1) the White House Personnel Security Office's "Project Update" or "Update Project;"
- (2) the White House Personnel Security Office's procedures for requesting, reviewing, maintaining, and safekeeping of background files;
- (3) access to the White House Personnel Security Office;
- (4) meetings between any member of the White House Personnel Security Office and members of the White House Counsel's Office, the Office of the Chief of Staff, the Office of the Counselor to the President, the Office of the First Lady, the Office of Administration and Management, the Office of the Vice President, the Office of Presidential Personnel, or any other component of the Executive Office of the President;
- (5) communications to or from the White House Personnel Security Office;
- (6) FBI, IRS, or other investigations, documents, files, records, or other material or information on or pertaining to any current or former employees of officials of the Executive Branch;
- (7) seeking or securing employment, a Presidential nomination or appointment, or detail in the Executive Branch since November 1, 1992;
- (8) work performed, or communications to or from, any political party, party officer, political campaign, or political organization since January 1, 1992; and
- (9) all records relating to any criminal complaints or charges against Mr. Marceca at any time.