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Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Counsel Office

Series/Staff Member: Michael Imbroscio

Subseries:

OA/ID Number: 13348

FolderID:

Folder Title:

SCS 1-176--[Personnel Security Information] [2]

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MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE U.S. OFFICE OF
PERSONNEL MANAGEMENT, THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION,
AND THE WHITE HOUSE OFFICE

I. GENERAL

This constitutes an agreement between the U.S. Office of Personnel Management (OPM), the National Archives and Records Administration (NARA), the White House Office (WHO), and the Office of Administration (OA) concerning:

- A. The ownership, maintenance, and retention of personnel and medical records of individuals who have been employed both in a position subject to the Civil Service regulations administered by OPM (under title 5, U.S.C. authority) and in a position subject to the personnel and employment regulations administered by the WHO (under title 3, U.S.C. authority). These various authorities are denoted "systems" in this memorandum.
- B. The granting of access to, disclosure from, and amendment of records in Official Personnel Folders (OPFs), Merged Records Personnel Folders (MRPFs), and Employee Medical Folders (EMFs) of individuals who have been employed by both the WHO and in the Civil Service.
- C. The exchange of personnel documents and data between several Privacy Act systems of records; disclosures will be made only if done in accordance with the Privacy Act.
- D. Procedures to be followed by the National Personnel Records Center (NPRC) when responding to requests for access to, providing information from, or disposition of, the records of separated employees when:
 - (1) the OPF or MRPF contains documents created during both Civil Service and WHO employment;
 - (2) a request is received for transfer of an OPF, MRPF, or EMF between systems;
 - (3) processing a request for an OPF, and the OPF contains only records of WHO (title 3, U.S.C.) employment.
 - (4) processing a request from the OA (written or telephone call-in) for retrieval of an OPF, MRPF, and EMF within 3 days from receipt of request (or sooner, if necessary). In all cases, the OA must be insured "priority" handling of request(s).

- E. Consultation and cooperation in the establishment and revision of processing and recordkeeping procedures which affect the OPF, MRPF, EMF.

II. DEFINITIONS

Access means providing an individual's records (or copies thereof) to that individual or to a representative designated in writing by that individual.

Amendment means correction, addition, deletion, or destruction of any part of an individual's record.

Data Subject means the individual to whom the information pertains and by whose name or other individual identifier the information is retrieved.

Disclosure means providing personal review of a record, or a copy thereof, to someone other than the data subject or other than the data subject's authorized representative or legal guardian.

Employee Medical Folder (EMF) (SF 66-D) means a file containing all occupationally-related civilian employee medical records created during the course of an individual's Federal civilian service under a personnel system subject to title 5, U.S.C. as well as another agency's medical records created under a separate personnel system when the agency has so entered into an MOU agreement with OPM and NARA.

Merged Records Personnel Folder (MRPF) (SF 66-C) means a file containing records and documents related to civilian employment under both the Civil Service personnel system (governed by title 5, U.S.C.) and another Federal personnel system, such as the WHO personnel system.

Official Personnel Folder (OPF) (SF 66) means a file containing records and documents related to civilian employment under title 5, U.S.C. or containing records and documents related to civilian employment under title 3, U.S.C. only.

OPM records means personnel records that were created by Federal agencies that are subject to OPM regulations.

Personnel Folder means a file containing records and documents related to civilian Federal government employment.

Third Party Request means a request for information about an individual, by someone other than that individual from outside the agency creating or owning the individual's record, who is not specifically authorized by the individual (data subject) to receive the information.

WHO records means personnel records that were created under title 3, U.S.C. authority.

III. CONTROL OF PERSONNEL AND MEDICAL RECORDS

A Civil Service employee's Official Personnel Folder (OPF) is part of the OPM governmentwide Privacy Act system of records known as OPM/GOVT-1, General Personnel Records, and is under the control and jurisdiction of the Office of Personnel Management (OPM). Documents of title 5, U.S.C. employees retained in the OPF (SF 66) are subject to the requirements of title 5, United States Code, title 5, Code of Federal Regulations, and the Federal Personnel Manual (FPM), as well as appropriate agency or department regulations.

The Merged Records Personnel Folder (SF 66-C) combines records of service under the Civil Service system and another personnel system, and is used whenever an agency creates new records of employment for a person with employment records created under more than one personnel system.

The Employee Medical Folder (SF 66-D) is part of the OPM governmentwide Privacy Act system of records known as OPM/GOVT-10, Employee Medical Files, and is under the control and jurisdiction of the Office of Personnel Management (OPM). Documents retained in the EMF (SF 66-D) are subject to the same authorities described above for the OPF of title 5, U.S.C. employees. The EMF may also contain medical records created under a non-title 5, U.S.C. agency authority; those medical records, although combined with title 5, U.S.C. records, are under the control and jurisdiction of the non-title 5, U.S.C. agency.

The White House Office personnel and medical records are subject to the requirements of title 3, United States Code and are under the sole control and jurisdiction of the WHO. Through implementation of this MOU, WHO personnel and medical records will be retained in the OPF, MRPF, and EMF as appropriate. Although the WHO is not bound by OPM regulations and procedures relating to establishment and maintenance of OPFs, MRPFs, and EMFs, the WHO agrees to follow the OPF and EMF maintenance procedures contained in FPM Supplement 293-31, BASIC PERSONNEL RECORDS AND FILES SYSTEMS, insofar as practicable.

The Office of Administration, Personnel Management Division, of the Executive Office of the President has responsibility for the establishment and maintenance of OPFs, MRPFs and EMFs of WHO employees. Requests for OPFs, MRPFs and EMFs of current WHO employees or any other questions or concerns regarding WHO employee records should be sent to: Director of Personnel Management Division, Office of Administration, Executive Office of the President, 725 17th Street N.W., Room 4013, Washington, D.C. 20503.

IV. REPOSITORY OF RECORDS

NARA, National Personnel Records Center (NPRC), in St. Louis, Missouri, is the authorized repository for the personnel and medical records of most former Federal employees.

The NPRC accepts OPF's, MRPF's and EMF's from agencies that are separating employees from the Federal service. Such records will be accepted by NPRC

only if they are filed in the appropriate folder (SF 66, "Official Personnel Folder," SF 66-C, "Merged Records Personnel Folder," or SF 66-D, "Employee Medical Folder") and contain the proper identification of the former employee--Name (last, first, middle initial), date of birth (month, day, year) and social security number.

The NPRC also agrees to accept loose miscellaneous documents from agencies for filing in OPF, MRPF, or EMF. Such documents will be accepted only if forwarded with a cover letter containing the name, date of birth, social security number and date of separation of the former employee.

If documents are improperly filed in OPF's, MRPF's, or EMF's, or if NPRC determines that an improper folder has been used to retain these records, NPRC will return such document(s) or folder to the separating agency for corrective action.

NPRC agrees to be responsible for the retention, maintenance and safeguarding of these records until they are again requested from NPRC by a designated Federal agency official, or until the authorized retention period of the file expires, whichever comes first.

Records must be forwarded to NPRC in a sealed envelope, a standard records carton, or similar container. All records must be addressed to: National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, Missouri 63118.

The OPFs, MRPFs and EMFs (which may contain WHO records) of separated employees, under OPM's control or as agreed to in an MOU with non-title 5 U.S.C. agencies, are retained at the National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri 63118. NPRC is responsible for the maintenance, retention, and disposition of these records in accordance with OPM procedures (as supplemented by any MOU between the Agency, NARA and OPM).

NPRC will forward to the OA an OPF, MRPF and EMF within 3 days from date of receipt of request. Records will be sent by express mail; this service will be funded by WHO. OA will provide an express mail label and envelope with each request.

V. ESTABLISHMENT AND MAINTENANCE OF FOLDERS

Title 3, United States Code (title 3, U.S.C.) exempts the WHO from the provisions of Executive Order 12107, "Relating to the Civil Service Commission and Labor-Management in the Federal Service," which designated the OPF in Federal agencies as property of OPM. Title 3, U.S.C. permits the establishment of an independent WHO personnel records management system. Although WHO is not bound by OPM rules and regulations governing the establishment, maintenance and retention of OPFs, MRPFs, and EMFs, the WHO intends to use OPM designated folders (SF 66 OPF, SF 66-C MRPF, and SF 66-D EMF) to retain its records.

VI. TRANSFER OF RECORDS

When a person who is employed by the WHO, and for whom OA, on behalf of the WHO, maintains an OPF or MRPF, transfers to an Executive Branch agency of the Federal government, or to another non-title 5 Federal agency with whom OPM has a MOU, the OA will transfer the OPF or MRPF to the new employing agency upon request. Before the Folder is forwarded, however, the OA and the WHO will remove any temporary records filed in the OPF/MRPF by the WHO, and insure that all long-term documents in the OPF/MRPF are complete and correct in accordance with requirements of FPM Supplement 293-31 and WHO regulations.

When an agency receives an OPF containing WHO records, the WHO records will be combined with the agency records and placed in a MRPF (SF 66-C).

When an agency receives a MRPF from the WHO, these records will remain in the MRPF (SF 66-C).

When an individual separates from WHO employment, but is not transferring to another Federal agency, the OA will forward the OPF or MRPF to NPRC.

VII. ACCESS TO PERSONNEL RECORDS

A. Data Subject Access Requests

When an agency receives a request from a current employee, who was formerly employed with the WHO to review or obtain a copy of his/her MRPF, the agency will make arrangements with the employee to establish when the MRPF can be reviewed or when copies of the MRPF can be made available.

When NPRC receives a request from a former WHO employee for a copy of a specific document, information, or transcript from a WHO record retained in an OPF or MRPF, NPRC will provide the requester with the requested copy, information, or transcript.

When NPRC receives a request from a former WHO employee for a copy of his/her OPF, NPRC will determine if the OPF contains only WHO records, or if the OPF contains records created under both the WHO and another personnel system. When the OPF contains only WHO records, NPRC will forward the request and the OPF to: Director of Personnel Management Division, Office of Administration, Executive Office of the President, 725 17th Street N.W., Room 4013, Washington, D.C. 20503. The NPRC will notify the requester of the referral.

When the OPF contains records created only under the WHO and title 5 authorities, NPRC will forward the request and OPF to the U.S. Office of Personnel Management, OPF/EMF Access Unit, for appropriate action, and notify the requester of the referral. OPM will place all records in a MRPF and provide the requester with a copy of his/her title 5, U.S.C. records. OPM will then forward the request and the MRPF to the OA (address above) for appropriate action regarding WHO records, and notify the requester of the referral.

When the OPF or MRPf contains WHO records, title 5 records, and records created by another non-title 5, U.S.C. agency, OPM will provide the requester copies of any title 5 records and then forward the MRPf and request to the OA (address above) for appropriate action regarding WHO records. OPM will notify the requester of the referral. When OA has responded to the request regarding WHO records, OA will forward the request and the MRPf to the next non-title 5 U.S.C. agency for appropriate action and notify the requester of the referral. The last non-title 5 agency responding to the request will return the MRPf to NPRC for retention.

B. Third-Party Access Requests

When NPRC receives a third-party request for access to an employee's WHO personnel records and the WHO records are retained in either an OPF or MRPf, and the requester has not obtained authorization from the data subject for release of his/her records, NPRC will forward the request and the OPF or MRPf to: Director of Personnel Management Division, Office of Administration, Executive Office of the President, 725 17th Street, NW., Room 4013, Washington, DC 20503. The NPRC will notify the requester of the referral.

When an agency receives a third-party request for access to an employee's WHO personnel records and the WHO records are retained in either an OPF or MRPf, and the requester has not obtained authorization from the data subject for release of his/her records, the agency will determine if the OPF contains only title 5, U.S.C. records, or title 5, U.S.C. records, WHO records, and other non-title 5, U.S.C. records. When the OPF contains only title 5, U.S.C. records, the agency will prepare a transcript with the information that is releasable under 5 CFR 293.311 and forward the transcript to the requester.

When the OPF contains title 5, U.S.C. records and WHO records, or records created under another non-title 5 personnel system, the agency will place all records in an MRPf. The agency will prepare a transcript for the title 5 records with the information releasable under 5 CFR 293.311 and WHO records with the information releasable under title 3, U.S.C. (contact the OA at the address in section VII.A. above to learn what information is releasable under title 3). Information requested on other non-title 5 service will be referred to the specific agency for response.

When an agency or the NPRC receives a third-party request for access to an employee's personnel records and the records are retained in an OPF or MRPf, and the requester has obtained authorization from the data subject for release of his/her records, the agency or the NPRC will proceed under section VII.A. above, treating the request as if it were made by the data subject.

VIII. DATA SUBJECT REQUESTS FOR CORRECTION OR AMENDMENT OF RECORD

Requests for correction or amendment of personnel records by a currently employed title 5, U.S.C. employee will be processed by the current

employing agency to meet the requirements of OPM's regulations. However, when the request involves correction or amendment of a WHO record, the agency will forward the request and the MRPf to the OA at the address in section VII.A. above for appropriate action. The agency will notify the employee of the referral. The OA will return the MRPf to the current employing agency for retention.

When NPRC receives a request from a former WHO employee for amendment of his/her WHO records, and the records are in an OPF or MRPf, NPRC will forward the OPF or MRPf to the OA at the address in section VII.A. above for appropriate action. NPRC will notify the requester of the referral.

IX. AGENCY REQUESTS FOR TRANSFER OF PERSONNEL RECORDS

When an agency is hiring a current WHO employee, the agency will forward a copy of the appointment SF 50, along with the agency's return address, to the OA at the address in section VII.A. above to request the employee's OPF or MRPf. The OA will forward the OPF or MRPf within 5 work days from the date of the request.

When NPRC receives a request from a Federal agency for the loan or transfer of a former WHO employee's OPF or MRPf, NPRC will forward the OPF or MRPf to the agency. NPRC will honor such requests only if the agency has submitted an SF 127, Request for Official Personnel Folder, to request the Folder.

X. REQUESTS FROM INVESTIGATORS

When an agency receives a request from a properly authorized and identified Federal investigator (i.e., FBI, CIA, DIA, NSA, DIS, DEA, OPM, Postal Inspector) for on-site review of a former employee's records that are retained in an OPF or MRPf, and the OPF or MRPf contains WHO records, the agency will furnish the records to the investigator for review. The agency will account for disclosure of the WHO records to any investigator.

When NPRC receives a request from a properly authorized and identified Federal investigator (i.e., FBI, CIA, DIA, NSA, DIS, DEA, OPM, Postal Inspector) for on-site review of a former employee's records that are retained in an OPF or MRPf, and the OPF or MRPf contains title 5 and WHO records, NPRC will furnish the OPF or MRPf to the investigator for review at NPRC.

When an agency receives a request from a properly authorized and identified Federal investigator to review off-site an OPF or MRPf that contains records of a former WHO employee, the agency will not release the OPF or MRPf for review of the WHO records unless the investigator presents a letter that specifically authorizes release of the WHO records. The authorization letter must be signed by the Director of Personnel Management Division, Office of Administration, Executive Office of the President (725 17th Street NW., Room 4013, Washington, DC 20503).

When NPRC receives a request from a properly authorized and identified Federal investigator for off-site review of an OPF or MPRF of a former title 5 and title 3 employee's records, NPRC will forward the request and the OPF or MPRF to OPM's OPF/EMF Access Unit for appropriate action.

Before releasing the OPF or MPRF to the investigator, the OPF/EMF Access Unit will:

- (1) obtain authorization from the Assistant Director for Workforce Information for the off-site review of the title 5 records in the OPF or MPRF.
- (2) obtain from the investigator a letter that specifically authorizes the former employee's OPF or MPRF containing title 3 records to be released for review. The authorization letter must be signed by the Director of Personnel Management Division, Office of Administration, Executive Office of the President (725 17th Street NW, Room 4013, Washington, DC 20503).

When the OPF/EMF Access Unit has obtained appropriate and proper authorization to release the OPF or MPRF to the investigator for off-site review, the Unit will:

- (1) make and retain a complete copy of the OPF or MPRF;
- (2) provide the original OPF or MPRF to the investigator with the requirement that the OPF or MPRF be returned to the Unit as soon as the review has been completed;
- (3) notify NPRC that the OPF or MPRF is to be charged out to the investigator. The charge-outs from NPRC for off-site review will be documented in the OPF or MPRF with an SF 127.

When the original OPF or MPRF is returned to the Unit, the Unit will compare each page to the photocopied OPF or MPRF to insure that the original is complete. After verifying the completeness of the OPF/MPRF, the OPF/EMF Access Unit will destroy the copy and return the original to NPRC.

When an agency or NPRC receives a request from a private investigator, who is under contract with a Federal agency, to review on-site an OPF or MPRF which contains records of a former WHO employee, the agency or NPRC will not release the OPF or MPRF for review of the WHO records unless the investigator presents identification that indicates he/she is acting in an official capacity to conduct an investigation and has an authority letter from: Director of Personnel Management Division, Office of Administration, Executive Office of the President, 725 17th Street N.W., Room 4013, Washington, D.C. 20503 authorizing that person's OPF or MPRF be provided for review.

XI. CONGRESSIONAL REQUESTS

When an agency or NPRC receives a request from either a member of Congress or a Congressional Committee for disclosure of a former WHO employee's WHO records, the agency or NPRC will forward both the request and the records to the address in section VII.A. above for appropriate action and notify the requester of the referral.

XII. ACCOUNTING OF DISCLOSURES

The NPRC, the OPM staff, OA and the WHO will account for the disclosure of each record released and place the record of disclosure in the OPF or MRPF, respectively. The accounting will show: the information that was released, the date that it was released, to whom it was released, who released it, and who requested the release.

XIII. ACCESS TO MEDICAL RECORDS

When an agency receives a request concerning medical records of a former WHO employee, the agency will forward the request to: Director of Personnel Management Division, Office of Administration, Executive Office of the President, 725 17th Street N.W., Room 4013, Washington, D.C. 20503, and notify the requester of the referral.

When NPRC receives a request for a copy of or information from the EMF which contains only WHO records, NPRC will forward the EMF and the request to the above address and notify the requester of the referral.

XIV. COORDINATION AND CONSULTATION

The OPM, WHO, OA, and NARA agree that there is a need for continuing close cooperation and consultation concerning the exchange of personnel documents and data and the applicability of procedures relating to the maintenance and use of OPFs, MRPFs, and EMFs. Matters of mutual concern which may arise, but are not covered by this memorandum, will be mutually resolved.

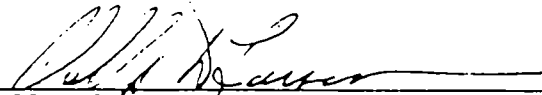
The Assistant Director for Workforce Information (OPM), the Assistant Archivist for Federal Records Centers (NARA), and the White House Office through the Office of Administration, Executive Office of the President, Director of Personnel Management Division, are designated as the coordinators and contact points for the establishment and oversight of relevant procedures, and will assign staff members to implement this agreement. Additional detailed agreements that the coordinators jointly establish will be considered to be a part of this agreement.

The parties to the Memorandum of Understanding (MOU) understand that the agreement is voluntary, and either party may terminate the MOU after notifying the other of its intention at least 90 days in advance.

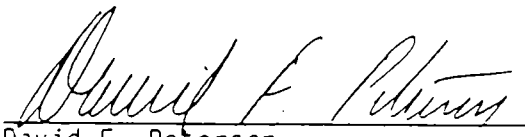
XV. PROCEDURES AND REGULATIONS TO IMPLEMENT THIS MEMORANDUM

It is agreed that the OPM, NARA, OA and WHO may issue regulations and procedures to implement this Memorandum of Understanding (MOU). The coordinators agree that they will consult concerning the development and issuance of such regulations and procedures, and that when such regulations or procedures are issued, a copy will be furnished to the other parties to this agreement.


Philip A. D. Schneider Date
Assistant Director for Workforce Information
U.S. Office of Personnel Management


Phillip D. Larsen 12/9/91 Date
Director of Personnel Management Division
Office of Administration
Executive Office of the President


Anita C. Bevaqua 12/5/91 Date
Director of White House Personnel Office
White House Office
Executive Office of the President


David F. Peterson 3/24/92 Date
Assistant Archivist for Federal Records Centers
National Archives and Records Administration

[COMMITTEE PRINT]

104th Congress
2nd Session

HOUSE OF REPRESENTATIVES

DEPOSITION TRANSCRIPTS FROM THE
COMMITTEE INVESTIGATION INTO THE
WHITE HOUSE OFFICE TRAVEL MATTER

VOLUME 5

BY THE

COMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHT

HOUSE OF REPRESENTATIVES



OCTOBER 1996

Printed for the use of the Committee on Government Reform and
Oversight

SCS 000060

Answer. I did not.

Question. Do you have a sense of whether or not Mr. Kennedy was supervising the office or not?

Answer. I am not trying to beg the issue. It is almost like how do you define supervision? And I base that going back to other admissions. With Jane Dannenhauer, she ran a tight office. So as far as anybody coming in there constantly for supervision, she answered to Dick Hauser, who was Deputy Counsel. I likened that to this situation, Craig Livingstone was Director of the Office, and, to my knowledge, Mr. Kennedy had confidence in him. So when you say "supervision," the definition would become involved.

Question. Okay. Well, did you ever see anything that caused you to have any concern that Mr. Kennedy maybe wasn't overseeing the office or was not involved with the activities to the extent that a person in that position needed to be involved?

Answer. No, I observed nothing that would cause me to question that.

Ms. COMSTOCK. I think that is all have I for today.

The WITNESS. Thank you.

Ms. COMSTOCK. Thank you.

[Whereupon, at 12:07 p.m., the deposition was concluded.]

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

IN THE MATTER OF: WHITE HOUSE TRAVEL
DEPOSITION OF CHARLES EASLEY

FRIDAY, JULY 26, 1996
Washington, D.C.

The deposition in the above matter was held in room 2203, Rayburn House Office Building, commencing at 9:23 a.m.

Appearances:

Present: Representative William F. Clinger, Jr.

Staff Present for the Government Reform and Oversight Committee: Barbara Olson, Chief Investigative Counsel; Barbara Comstock, Special Counsel; Kristi Remington, Investigator; David Schooler, Minority Chief Counsel; Donald Goldberg, Minority Assistant to Counsel; and Daniel Hernandez, Minority Professional Staff.

For MR. EASLEY:

STEPHEN M. RYAN, ESQ.
JONATHAN S. FELD
BRAND, LOWELL & RYAN
923 Fifteenth Street N.W.
Washington, D.C. 20005

SCS 000061

THEREUPON, CHARLES EASLEY, a witness, was called for examination by Counsel, and after having been first duly sworn, was examined and testified as follows

Ms. COMSTOCK. Good morning. We are on the record today for the deposition of Charles Easley, which will be administered under oath.

May I identify the people that are present in the room this morning. My name is Barbara Comstock. I am Majority investigative counsel. Kristi Remington is assistant counsel in our office, and Dan Hernandez is with the Minority staff. Mr. Easley is here with his attorney this morning Jonathan Feld and Stephen Ryan.

I would like to provide you with some background information concerning this investigation and your appearance here. As you know, pursuant to its authority under Rules 10 and 11 of the House of Representatives, the Government Reform and Oversight Committee is investigating the White House Travel Office matter.

This matter refers to all events leading up to the May 19, 1993 firings of the White House Travel Office employees and includes all information provided about the White House Travel Office and any employees of the White House Travel Office at any time from January 1st, 1993 to the present.

Our investigation also encompasses the activities of Harry Thomason, Darnell Martens and Penny Sample at the White House as well as all allegations of wrongdoing concerning the Travel Office employees.

The committee investigation is reviewing all actions taken by the FBI and the Department of Justice, both prior to and after the firings, including the actions by any field office personnel and any White House involvement in coordination or attendance of interviews.

The investigation includes, but is not limited to, the investigation and prosecution of *U.S. v. Billy Ray Dale* and all investigations and subsequent reviews of the Travel Office firings by any agency including, but not limited to, the White House Management Review, the FBI Weldon Kennedy/I.C. Smith Review, the FBI OPR Review, the Justice Department OPR Review, the IRS Internal Review, the Treasury Inspector General Review, the GAO Review, and the proposed U.S. House of Representatives Resolution of Inquiry which was voted on and considered in the House Judiciary Committee in July 1993.

Do you understand that your answers are to include all information that you have involving these subjects?

Mr. RYAN. I object to the form of the question. It is extremely complex. You have read a page and a quarter into the record of the thing, and it dealt with a number of complex subjects.

We have a letter that I ask be put in the record of July 22nd, 1996. We know you are here to ask us questions about the Travel Office pursuant to the House Resolution, and Mr. Easley is ready to answer your questions on that.

Ms. COMSTOCK. I understand there are a lot of these areas that you may not be personally involved in many of them, but we want to describe the scope to you of the various reviews of all the information there so if there is a question of scope or what may or may

not be included in questions we are asking, just so you are understanding that it is your knowledge that you have regarding any of these matters.

Mr. RYAN. Well, why don't you go ahead and ask questions about what he knows, and he'll answer every question he can. He understands you have tried to tell him what the scope of your inquiry is, and from my standpoint I understand what you consider pertinent by reading that list, and he is prepared to answer questions on pertinent issues.

Ms. COMSTOCK. The committee has been granted specific authorization to conduct this deposition pursuant to House Resolution 369 which was passed by the House of Representatives on March 7th, 1996.

Committee counsels will proceed with equal rounds of questioning each lasting up to 1 hour until both counsel have completed their questioning.

You are here today voluntarily and not by subpoena; is that correct?

Mr. EASLEY. That is correct.

Mr. RYAN. Let me amplify. He is here because we received a written request asking him to come, and he has agreed to do that voluntarily.

And again, would you have any objection to that letter and the attachments being a part of the record of this, the letter that you sent us, your letter of July 22nd, Mr. Clinger's letters inviting us to be here?

Ms. COMSTOCK. I don't know we need to make it part of the record. We are trying to not—I understand we did send a letter, but I don't—

Mr. RYAN. It is why we are here, and it responds—

Ms. COMSTOCK. I understand, but we have asked for voluntary interviews unless someone wants to be subpoenaed. We can do that. I want to make clear that I understand that we did request that he come here, that this may not be his top choice of places to be on a Friday morning.

Mr. RYAN. He has agreed to be here voluntarily in response to Chairman Clinger's letter of July 22nd, 1996, which I ask to be put part of the record.

Go ahead.

Ms. COMSTOCK. Okay. If you want, we can put the letter in. I don't think we need to put the lengthy attachments.

Mr. RYAN. It is actually only three pages.

Ms. COMSTOCK. I thought you were holding a stack there. Okay. This deposition will be under oath, and you will be allowed to confer with your attorney. If you do not understand a question, please tell me, and I will try to rephrase the question.

I ask all objections raised by your attorney be stated for the record with the reason for the objection clearly stated. At that point we can discuss any issues related to the objection.

You will be given a 5-day time frame in which you and your attorney can correct any technical problems that you perceive in the transcription and to clarify any matters. After the review period you will be asked to sign the transcript. Do you understand?

Mr. EASLEY. Yes, I do.

EXAMINATION BY MS. COMSTOCK

Question. Why don't we get started.

Could you provide your background for the record, Mr. Easley? We have been going from college forward, if you don't mind.

Answer. Since I didn't attend college, we will go back to high school. I joined the Army in 1958; spent 20 years on active duty with the United States Army in various assignments; retired from the Army October 1, 1978; went out in civilian life for a while and sold cars at various dealerships in Maryland. And starting October 1st, 1986, I did the duties at EOP, security officer to the White House.

Question. Could you describe what those duties entailed at that time?

Answer. At that time the White House was broken down actually into two sides, the political side and the career side, and my function as an EOP security officer was to handle the career side of the career employees. My primary job was to collect the necessary forms, to initiate FBI background investigations, to initiate those background investigations, to issue—to ask the Secret Service to issue temporary passes on an as-needed basis. Once the investigations were complete, I would adjudicate the investigation, resolve any issues, and request permanent passes and grant whatever security clearances were needed.

Question. Could you describe when you would initially get SF-86s from individuals? Is that at the beginning of the process?

Answer. That was the beginning of the investigative process. I initially would get an SF-50 or 52 from Personnel identifying an individual as a potential employee.

Question. The SF-50 or 52 was the initial paper that you would get?

Answer. Yes.

Question. Following that you would get an SF-86?

Answer. We did interviews. We would collect the SF-86, yes.

Question. Did you do the sort of preinterview screening prior to getting the SF-86 or after the 86?

Answer. When I first got there in 1986, the preemployment interview was done after we had the SF-86 in hand. It was changed in about 1988, and I now do—we do the preemployment interview before the individual is offered employment or before he or she completes an SF-86.

Question. So prior to 1986?

Answer. About '88 we changed the process.

Question. As of 1988 the preemployment interview would be done prior to?

Answer. That is correct.

Question. Could you describe what that preemployment interview consists of?

Answer. Well, we ask a series of questions concerning an individual's background. We ask about arrest records. We ask about drug usage. We ask about previous employment. We ask about indebtedness. Basically questions to determine an individual's suitability for employment.

Question. Do you have a form that you work off of on that?

SCS 000064

Answer. Yes, I do.

Ms. COMSTOCK. I would ask for the record that we have a copy of that form for the record.

Mr. RYAN. Let me ask a question. How is any of this related to the Travel Office? Not—the stuff that we are going to walk through with him on this, I don't know—

Ms. COMSTOCK. This is related to both the Travel Office and file matters. I mean, obviously the process of getting clearances and things at the White House are relevant. We are looking at how Mr. Easley has done this as opposed to how Craig Livingstone's office may have operated, and his knowledge of procedures, and how he operated in the White House, how he is handling the office in its new creation.

We would like a record of how it previously worked, and whatever the operations are at this time, and whatever his knowledge may be of how Mr. Livingstone's office operated, in addition to his knowledge of the events related to the Travel Office and the White House file matter and Mr. Livingstone's involvement in those matters.

Mr. RYAN. My letter talks about the Travel Office. And he has—I think you know—maybe we could establish what he knows about the White House Travel Office matter as you defined it at the beginning with the thing you read. And if you can tie this up, I will let him answer. In fact, we are prepared to answer all of these questions. I don't see what relationship they have, if any, to the Travel Office matter.

Ms. COMSTOCK. In the White House Management Review, which reviews the White House Travel Office matter, there was extensive discussion about White House passes, and obtaining the White House passes and clearances in the White House is an ongoing issue as a result of the White House Management Review. I am sure Mr. Easley is very aware of there were significant problems in the first 2 years of the White House in getting White House passes, problems which I understand Mr. Easley was brought in to at some point to discuss. We do want to go into those matters, and obviously those matters do go into some of the areas and the problems we have.

I can go through—if you want to go through a more extensive record, I can. I am trying to keep the day shorter rather than longer.

Mr. RYAN. My point, Barbara, is all of those matters have nothing to do with the Travel Office. They have zero to do with the Travel Office.

Ms. COMSTOCK. That is why we read the extensive discussion. If you want me to get the White House Management Review, and we can look through that, that does have discussions with the White House Counsels, and that is a matter that we have been regularly questioning people on.

Mr. RYAN. Let me finish. I don't want to interrupt you. Bottom line is I will let him answer all these things about his duties, but I am saying right now that they are completely—there is no relationship and no pertinency to the Travel Office matter. At a certain point if we diverge even further from that, I'm going to object on grounds of pertinence frankly.

I am going to accommodate the committee and let him answer things I don't think are pertinent right now to accommodate you. I don't want to make this a long, drawn out thing. He is nonpolitical. He works at the White House, and he would be glad to answer your questions. At a certain point you have a charter, and these questions have nothing to do with this charter, zero.

Ms. COMSTOCK. I would totally disagree with that because, as I have explained, the White House passes have a lot to do with this. That is why Harry Thomason was in the White House in the first place. He was given a White House pass in a manner in which the White House later acknowledges was inappropriate.

Mr. RYAN. Ask him about Harry Thomason.

Ms. COMSTOCK. Asking about Harry Thomason is not where we are limiting this. We would like to know about the process by which this all operated, and how Harry Thomason came to get a pass is an event isolated in and of itself. It is connected to larger patterns of how things are done or not done in prior administrations.

Mr. RYAN. I will let him answer your questions on this, but I believe it is not pertinent.

Ms. COMSTOCK. For the record, it is an area we have been exploring for several months now even prior to the file matter.

EXAMINATION BY MS. COMSTOCK:

Question. Okay, why don't we—I guess we were talking about the suitability issues and how you review this, and I had asked for the record we get a copy of the form that you work off of in terms of asking people about their backgrounds.

Answer. That form has changed over the years.

Question. Okay, could you describe how it is changed?

Answer. Originally it was a two-page form, and we would ask the questions and write the answers down. And now it is a four-page form, and I have the individuals write their own answers down and sign each page.

Question. And when was that changed to the four-page form?

Answer. Probably towards the middle of the Bush administration, I believe.

Question. Then following this preemployment interview and, I guess, receipt of the SF-86, do you then personally review the SF-86s for individuals at the White House?

Answer. At the White House at this time we are talking about, I didn't review White House files.

Question. You reviewed EOP forms?

Answer. The career folks, yes.

Question. Could you describe what offices that includes, who you were reviewing prior to the recent changes in the past few months?

Answer. The Office of Administration, the Office of Management and Budget, Council of Economic Advisors, Council of Environmental Quality, Office of Science and Technology Policy, Office of the National Drug Control Policy, United States Trade Representative. And there were commissions and things in between that came and went.

Question. Could you describe what guidelines you used in terms of suitability?

Answer. I attended an OPM suitability seminar back in 1987, plus I had previous experience in adjudication training by the United States Army, but mainly follow OPM guidelines.

Question. And could you describe briefly what those guidelines say about suitability?

Answer. There is no way to describe them briefly. You look at the issues, and you determine if an issue is really an issue. The recency of the issues, what they are, major—there are certain things that would be immediate disqualification.

Question. And what would those be?

Answer. Violent crimes, mental health problems would make them unstable, current or recent drug use.

Question. How would that be defined?

Mr. RYAN. I object. This is completely impertinent to the Travel Office. If you want to tie it up to the Travel Office, do so. I am directing you not to answer questions about drug policy issues. We are just too far afield.

EXAMINATION BY MS. COMSTOCK:

Question. Are you familiar with a gentleman named Craig Livingstone?

Answer. Yes, I know Craig Livingstone.

Question. Have you recently become aware that Craig Livingstone had a drug history?

Mr. RYAN. I am going to direct you, if you have information that you have obtained on that issue the release of which might violate the Privacy Act, that you think carefully about your answer. I don't know how you—you need to answer this question at least yes or no before we get into it.

The WITNESS. Yes, I read it in the newspaper.

EXAMINATION BY MS. COMSTOCK:

Question. And are you aware of a program at the White House in which extensive or recent drug users were put into a special individual random drug testing program?

Mr. RYAN. I am objecting on pertinency grounds. Show me how that is pertinent to the Travel Office. Tie it up for me. Give me the connective reasoning that gives the drug policy at the White House an issue for the Travel Office.

Ms. COMSTOCK. This is going to make our day a lot longer. Again, we have been dealing with the White House pass issues and the operation of how that was done at the White House. Mr. Livingstone and Mr. Kennedy were key operatives in that mission.

Recently it has come to light there are lots of problems in obtaining passes for new White House employees. And there were situations where at least 21 people were put into a special drug testing program at the White House because of these problems.

We know that hundreds of people at the White House, according to a GAO report, did not turn in their SF-86s at the beginning of the year for over a hundred days; for over 300 days in some situations. We have apparently many individuals who had problems in their backgrounds that were not being addressed by the Counsel's Office and were sitting on Mr. Kennedy's desk. That information has been testified to by numerous people and as a result of this

very same time the White House was pursuing background files on prior Reagan and Bush officials at same time they were not clearing their own people.

We were looking into all of these matters and any knowledge Mr. Easley has of these events. Since he is someone that is involved with similar reviews of backgrounds in the EOP, we want to ask him about his knowledge of these programs.

Mr. RYAN. Let me—I think—why don't we have this out now then. On the drug policy issue, you have not shown me the connective reasoning that shows that is pertinent to the Travel Office. The committee may well indeed have the jurisdiction to look into the drug policy at the White House, and I am not saying anything about the committee's jurisdiction in that regard.

I have a letter here in front of me, Mr. Ryan, and we had a hearing last week on this. We took three depositions a week prior to that hearing on this matter, and the Chairman has clearly ruled it is within the jurisdiction of this committee and the matters related to this, and we are going to continue to do so.

Mr. RYAN. Why don't you ask him about things related to the Travel Office?

Ms. COMSTOCK. These are matters related to the Travel Office. If you would like to stop at this time and get the Chairman's ruling.

Mr. RYAN. Get the Chairman. I don't want the Chairman's ruling, I want the Chairman to sit here, listen, and rule. This prior ruling about another situation with another witness is not what I am interested in dealing with.

Let me just say for the record we want to accommodate you. I will be glad to have him come back on a different day.

Ms. COMSTOCK. We would like to go forward with this today.

Mr. RYAN. Don't interrupt me, please, Barbara. Let's be polite to one another.

The bottom line is we are here to answer questions about the Travel Office. We will answer questions about the FBI file matter, which I frankly don't think is connected to the Travel Office, but I am glad to do it. But the drug policy issues with respect to the White House are not pertinent to the letter you sent me, so—

Ms. COMSTOCK. Mr. Ryan, as you know, the Chairman determines what is within the scope of this investigation. I have explained extensively that these are issues that are involved in this. We have already had hearings and depositions on the drug testing program and on these matters and how they relate to the matters that we are investigating. The Chairman has clearly determined that this is within the jurisdiction, and these are matters that we want to go into with this witness. Are you instructing the witness not to answer these questions?

Mr. RYAN. I am instructing him not to answer questions about the drug policy issues until you tie it up to pertinency of the Travel Office. We have a million things can you ask him.

Ms. COMSTOCK. Mr. Ryan, your definition of what is related to the Travel Office is not what is determinative here.

Mr. RYAN. Then I am directing him not to answer for now.

Ms. OLSON. Can we go down off the record?

Mr. RYAN. Sure.

[Discussion off the record.]

Ms. COMSTOCK. Back on the record here.

We had questions pending on the drug testing program and problems with obtaining passes at the White House, and I believe Mr. Ryan instructed the witness not to answer those questions.

Mr. RYAN. Why don't you ask a specific question, and we will go from that.

Ms. OLSON. I think at this point the Chairman is here, because there were conversations that that material was beyond the scope by—

Chairman CLINGER. That was the issue I was interested in.

Ms. OLSON. We have gone down and discussed issues with the Chairman that his—Mr. Easley's attorney instructed the witness not to answer questions not only about the passes issue as well as the drug testing program, but that there was starting to be a question on the FBI files matter as a general—whether that was within the scope of this investigation and properly a question for this deposition. Since the Chairman does rule on these matters and it is merely a scope issue, the Chairman came down here, due to the fact that we are hitting the last week of the session, to state his view of scope.

Chairman CLINGER. Yeah, we really don't have time.

Mr. SCHOOLER. Mr. Chairman, let me just state for the record this is a committee issue for a moment, just for a committee issue. The Rule 19 that we adopted stated that you would make a good faith effort to consult with either the Ranking Minority Member or her designee before making a ruling. As you know, Mrs. Collins is not here, but she has written to you to designate Mr. Kanjorski to act in her absence. I just want to assure myself that the Minority has been consulted on this ruling.

Chairman CLINGER. I will consult with Mr. Kanjorski. I can tell you my opinion from what I have heard about the issue, the questions that have been asked and issues raised, that it would be within the scope of the investigation that we are conducting at the present time having to do with Filegate, having to do with drug testing program and the passes. I think that is all within the overall scope of the investigation that we have been conducting.

But I will, before issuing any kind of a final decision on this, I would consult with Mr. Kanjorski. I was not aware he been designated.

Mr. SCHOOLER. Mrs. Collins had written to you with respect to the review of the files because she was going to be necessarily absent. If you would prefer Mr. Waxman, who is the next Ranking individual, I think he could be considered a designee.

Chairman CLINGER. I will consult with them. I am not sure it will change my mind, but I will consult with him.

Mr. RYAN. Mr. Chairman, let me be heard. I basically do not agree with the characterization that Counsel Olson placed on this, the specific question that was pending, and I objected to it, and the only question that I objected to was a second question into drug policy issues.

All I asked is that the committee show how that is pertinent to the Travel Office issue. The Travel Office report and resolution, the letter—your letter to me said that we are

Travel Office today. I have no objection to him being asked questions about Mr. Livingstone, Mr. Marceca and the FBI file issue. Frankly, I think that is a little bit impertinent to the Travel Office, but I think if it is done with connective reasoning, that can extend that far. Where the connective reasoning runs out for Mr. Easley is on drug policy unless it can be tied up to the Travel Office. I am glad to answer it.

Frankly, I think this committee may have jurisdiction independently of the Travel Office matter that it could invoke. I would be glad to come back with him when he is prepared on drug policy. I want the two issues separated. Unless you are going to rule that the drug issue is somehow related to the Travel issue, I don't see that connective reasoning, and counsel has supplied me with none.

Ms. COMSTOCK. We have on the record discussed it extensively.

Mr. RYAN. Let me finish. I can read into the record the issues of pertinency and the case law pertaining to this committee that it has to tie up—in *Watkins v. United States*, it has to tie up to its charter the questions that are being asked. It is a question-by-question issue.

I think we are making a mountain out of a molehill. Frankly, we have already gone this route once in the Senate, and I never had to invoke—we testified before Senator Hatch's staff and then again in hearings, and we never reached this point, so I have let him—and I will show the Chairman in the deposition that he took there, you can ask anything you want about the Travel Office, you can ask anything you want about the FBI file issue, but when we get to drug policy, I don't know that it is pertinent, and if the Chairman wants to connect it up for me, I may change my mind, but frankly right now I don't see the pertinency of that matter.

Chairman CLINGER. That is the only area.

Mr. RYAN. That is correct, and that is the only thing I told him not to answer about. That is why—

Chairman CLINGER. Were you aware we had a hearing last week where that became a major part of the discussion?

Mr. RYAN. Mr. Chairman, other lawyers may commit malpractice to their clients. I don't. This is a pertinency issue. I am raising it, and frankly this man is a civilian. He is nonpolitical. This is not about that.

We will come back next week in a separate proceeding if you give us another letter and say how you just want to do drug policy. My letter says Travel Office. I am sticking to that. That is what we are here for today, and I don't mind coming back again. In fact, I will come back on Monday with him. But I want to be prepared on this issue. I have not asked the White House about whether they have had any objections to it. I know there is pending litigation that you have testified in this week; am I correct that there is?

The WITNESS. Yeah.

Mr. RYAN. That there is a case. It is a different issue, Mr. Chairman. If it's pertinent, by the way, I will have him answer it, but pertinency has to be connected up, and I agreed that if you can connect it, he'll answer it.

Ms. OLSON. Let me just please give you a pertinency area which may help to define a scope. Craig Livingstone has been a figure who has come to the forefront, obviously, in the file matter. Mr.

Livingstone's background and the decision to bring him into the White House became quite relevant, obviously, in the file matter. Mr. Easley worked with Mr. Livingstone very closely before—we believe he did—before Mr. Livingstone left, and, in fact, Mr. Easley now has a very responsible position that the White House has stated that put Mr. Easley in charge of those matters.

We found out that there was a drug testing program in the White House and announced that publicly. We know that there were certain people put in certain level positions, but we—and under the Chairman's request have not asked names, nor has the Chairman authorized us to ask Mr. Easley who is in that program.

However, the operation of that program, with the fact that Mr. Easley now has Mr. Livingstone's position, and not general drug policy of the whole White House, but the operation of that program as it applies to his job as head of the White House Security Office as well as it does apply to Mr. Livingstone when he was head of that office, is tied into the White House Travel Office matter.

The Travel Office has never just been the Travel Office firings, it has always been the matter, which is why we give such an extensive opening statement, because for 3 years this investigation has included many things other than just strictly the very firings of the Travel Office.

So if that helps scope, I think that is why we are going into the drug area and the drug policy and as it applies to the Office of Personnel Security.

Mr. SCHOOLER. I will state for the record that the Minority does not believe that the drug policies of the White House are relevant to the resolution passed on the House Floor relating to the Travel Office. We do not object to any questions asked in a hearing concerning whatever matter the Chairman believes is within the jurisdiction, and we do believe that drug policies at the White House would be within the jurisdiction of the committee. I just want to make clear what we feel at issue is the deposition authority.

Chairman CLINGER. Do I understand you are saying that unless you can see a relevancy, you are not prepared to answer these questions today or any other day; or are you saying you are not prepared to answer them today because you are not on notice that this was going to be discussed, but you would be prepared to answer them—

Mr. RYAN. Mr. Chairman, I will go further than that. I will basically say I am glad to have him talk to this committee, talk to you or anyone you designate, about White House drug policy when I get a letter from you that says that is pertinent to the committee's jurisdiction and that you want him to do it, and I will bring him right up here, and I will do it next week. But that is not what I got in the mail.

I got a letter about the White House Travel Office. The page and a quarter that was read into the record at the beginning is about the White House Travel Office. Billy Dale's file was in the files that were in the Filegate. I am not objecting—frankly, I think it is pretty far afield to say that the file issue is a Travel Office issue, but I am more than prepared to have him answer every question you have about the FBI file matter. The committee can ask any question it wants today about Mr. Livingstone and what he did.

about Mr. Livingstone. We answered all those questions in the Senate. But on the White House drug policy issue I am not prepared, he is not prepared, and I don't have—I have to check with the White House about the pending litigation. I don't think I, as a private counsel, should waive rights of the United States in a piece of litigation with respect to that.

So if they want to ask questions about Livingstone and his drug use, I will let him answer. That is at least only a double jump of pertinency, and I am trying to accommodate the committee. Frankly, I didn't expect that we would have this crisis.

Ms. COMSTOCK. It is also the policies connected to how someone would—

Mr. RYAN. Why don't you at least start by trying to tie it up.

Chairman CLINGER. As I see where we are, you are not prepared to answer these questions today. If you get a letter from me, you will be prepared to answer those questions, and you will get such a letter.

Mr. RYAN. Thank you, Mr. Chairman.

Ms. COMSTOCK. We haven't put on the record that Mr. Schooler is here for the deposition.

Are you going to be conducting the deposition now, Mr. Schooler, or is Mr. Hernandez?

Mr. SCHOOLER. We are going to talk about this based on recent—

Ms. COMSTOCK. I am sorry?

Mr. SCHOOLER. We will discuss it later, and you will get the answer.

Ms. COMSTOCK. We began this deposition—

Mr. SCHOOLER. We haven't asked any questions, I don't believe. Just one person can ask the questions for the Minority. At this point none of us have. So you will get your answer when we start asking the questions.

EXAMINATION BY MS. COMSTOCK:

Question. We had been talking about suitability issues, and you had said—it was your testimony that there were certain issues that would be determinative of someone not being suitable; is that correct?

Answer. That is correct.

Question. Had you listed violent crime, mental health problems, and current and recent drug use; was that correct?

Answer. That is correct.

Question. Can you define what you mean by current and recent drug use?

Answer. You—

Mr. RYAN. I object. It is the same—I mean, we just had the Chairman here. Don't beard me by going back right back to the same question. I let him answer the general question about what are the issues and the guidelines. If you are going to delve into that particular issue, I am—

Ms. COMSTOCK. I am asking about suitability issues—

Mr. RYAN. I understand that. I'm again asserting it is on drug policy. I just went through this with the Chairman respectfully. He walked out of room.

Ms. COMSTOCK. Do you want to go into what other areas of suitability will he answer, what other areas of suitability he can discuss, or is that also another off-grounds thing? He is not going to address anything that is relevant to suitability at the White House, how someone such as Craig Livingstone could end up in a position in the Security Office, or is that not pertinent to this inquiry, how Craig Livingstone would end up in the office?

Mr. RYAN. The question that you originally asked that he has given a multipart answer to, he asked him what the guidelines were he used for suitability. He answered, OPM guidelines. He asked him what was in them. He was ticking off separate areas about that.

EXAMINATION BY MS. COMSTOCK:

Question. Why don't we continue through what area after current and recent drug use—what other areas would make someone unsuitable for a position in the White House? Define them.

Answer. Major indebtedness.

Question. Can you describe what that would be?

Answer. I may have—if someone has a severe debt problem that they are not taking care of.

Question. Would not paying your taxes for several years be something that would fall under that realm?

Answer. Indebtedness to the United States Government is a basis for removal or denial of employment.

Question. Could you explain that policy, when you say indebtedness is a basis for removal?

Mr. RYAN. How is that connected to the Travel Office? How is indebtedness? Ask a question. All I am asking you to do is tie up to—

EXAMINATION BY MS. COMSTOCK:

Question. Do you know a man named Bill Kennedy?

Answer. Yes.

Question. Did there come a time when you became aware that Mr. Kennedy had an issue of tax problems in his background that was publicized in the press in 1994?

Answer. I never knew he had a tax problem.

Question. Do you recall reading that in the press at any time?

Answer. No.

Question. During the past 3 years?

Answer. No.

Question. Never heard about Mr. Kennedy having a tax problem?

Answer. I—no, I haven't.

Question. You know who Mr. Kennedy is?

Answer. Absolutely.

Question. Were you familiar with his role at White House?

Answer. Yes I was.

Ms. COMSTOCK. I will state for the record March of 1994 it did become public record that Mr. Kennedy had to back pay nanny taxes, which he did under his wife's former married name apparently, and this information had not been provided to certain individuals at the White House, and the White House only became aware of it in March of 1994. In that context the issue of

ing taxes and people involved with that is relevant to this inquiry since Mr. Kennedy obviously was a key person in the Travelgate matter.

Mr. RYAN. Ask him a question did he have anything to do with Bill Kennedy's background investigation or any authority over it.

Ms. COMSTOCK. I understand. I am asking his knowledge of how the White House or the EOP deals with indebtedness, and he has just stated that indebtedness to the Government is basis for removal or denial of employment, and I am asking him to explain that statement. I am not asking him to comment on Mr. Kennedy. I have asked for some kind of explanation on why the witness is describing certain things are determinative and as not being suitable. I am just asking him to explain what some of these mean for the record.

Mr. RYAN. Mr. Kennedy was apolitical. At that time, he did not have within his duties at the White House anything to do with the clearance process on a political—

Ms. COMSTOCK. I am asking this witness about suitability issues under the EOP.

Mr. RYAN. Okay, go ahead. It is impertinent, but I want to move us along.

Answer the question if you can.

The WITNESS. I am not sure what the question was now. Could you repeat it?

EXAMINATION BY MS. COMSTOCK:

Question. Could you explain the indebtedness to the Government as a basis of removal or denial of employment? How would actions be taken?

Answer. On the career side of the House, which I was responsible for at that time, and it is a career employment, obviously you have to initiate adverse personnel action.

Question. And would you initiate such an action if you learned that someone had not paid their taxes for several years?

Answer. Well, I think the first thing you would do is call the individual in and give him a chance to explain and perhaps a chance to correct the matter.

Question. And could you continue on on unsuitability issues other than the ones we have described so far?

Answer. It is tough to—it is issues that come up with the investigation, it is issues that you—I don't know of any other issues. It is just flat disqualification. Each case stands alone, and we adjudicate each case on its merits.

Question. When you mentioned violent crimes, could you describe what you mean by violent crimes?

Answer. Any crime involving a weapon.

Question. Would threats or assault be included in that also?

Answer. Assault would include a weapon, I would think; threats, we would look at the nature of the threat, what type of threat.

Question. After you had reviewed the SF-86s, what was the process that you followed in forwarding them to the—to initiate the FBI background investigation?

Answer. We would forward a request to the appropriate investigative agency asking if he met the background check.

Mr. FELD. Could I get a time period which you are talking about?
Are you talking about the '80s or '90s?

Ms. COMSTOCK. If there are changes—

Mr. FELD. Give a date.

EXAMINATION BY MS. COMSTOCK:

Question. We could work from 1993 forward if that is helpful.
Answer. 1993 forward?

Question. Yeah.

Answer. 1993 forward to when?

Question. To the present.

Answer. There has been a change.

Question. Why don't we—the changes in the past month we will address later. Talking about from January 1st, 1993 until the recent changes in the last few months, what was the process you followed following forwarding the request to the FBI?

Answer. That process has been changed in that time period also.

Question. Why don't you describe those changes from 19—

Mr. RYAN. To accommodate you, the premise of your question is that it is always the FBI, and that is not true. I think he answered already. I am just trying to help you now. His answer was he forwards it to an investigative agency. If you want to ask about the FBI—

EXAMINATION BY MS. COMSTOCK:

Question. What investigative agencies did you forward them to?
Answer. Primarily the FBI, but the Office of Personnel Management also does investigations for us.

Question. For whom would they do investigations?
Answer. For my office. I request them. You want to know the agency?

Question. Yes.

Answer. USTR, the United States Trade Representative.

Question. Other than USTR, would the FBI handle all the other offices that you were responsible for?

Answer. During this period of time, no. OPM also did some for the Office of National Drug Control Policy during this period of time. No others, I believe.

Question. From January 1st, 1993, at that time do you know who did ONDCP, if it was FBI or OPM?

Answer. It is a combination.

Mr. RYAN. What does this have to do with the Travel Office?

Ms. COMSTOCK. We are going through understanding how—

Mr. RYAN. The Office of National Drug Control Policy has nothing to do with the Travel Office.

Ms. COMSTOCK [continuing]. How the clearance process works and who does what in the clearance process. There are various offices. Mr. Easley handles EOP and who is in that and how it is handled.

Mr. RYAN. Could we do something which is pertinent to what we are here for, which is the Travel Office, the file—

Ms. COMSTOCK. Does he not know that, or can you not answer that question?

Mr. RYAN. No, he knows the answer to these questions, it just has nothing to do with what we are here for.

Ms. COMSTOCK. How his office operates—does have something do—has a lot to do with what we are here for, and how this office that he is now in charge of did or did not operate is very relevant to this inquiry. And I am trying to understand the interaction between the various offices in the White House, and this witness has key information regarding that.

Mr. RYAN. I will let him answer this, but we are down the road again where it simply has no relationship to the issue that you read at the beginning about the Travel Office. You are asking about the Drug Control Policy Office, USTR. Neither of them have anything to do with the Travel Office.

Ms. COMSTOCK. I am asking how he interacts with what agencies he provides SF-86s to.

The WITNESS. I responded to you and identified all the agencies that I get SF-86s from.

EXAMINATION BY MS. COMSTOCK:

Question. It is the FBI or OPM?

Answer. We get the SF-86 for either investigation, whether it be the FBI or OPM.

Question. Then you forward those for them to be begin a background investigation?

Answer. Or the appropriate checks, yes.

Question. And prior to your forwarding them, do you make some recommendations that certain individuals that the process not go forward; on some occasions does that occur, that you do not go forward with a background investigation because of information you may have learned in a preinterview process?

Answer. Yes.

Question. And would that be because some of these major disqualifying issues of suitability that you have identified, those would those be some of the reasons a background investigation would not go forward?

Answer. That is correct.

Question. To your knowledge, did Craig Livingstone in any time from 1993 forward employ any type of preinterview process in his office?

Answer. He set up a similar preemployment interview program based on my program.

Question. Can you describe when you first met Craig Livingstone?

Answer. It was probably February of 1993. Jane Dannenhauer, who was with the Bush administration's White House Security Office, was still working, and I went over to see her, and she introduced me to Craig.

Question. And were you told who he was and what his job was?

Answer. Yes.

Question. And what were you told?

Answer. That he was going to be replacing Jane Dannenhauer in the White House Security Office.

Question. Do you know who hired Craig Livingstone in that position?

Answer. I have no idea.

Question. Did Craig Livingstone ever tell you about who hired him or recommended him to the White House for any position?

Answer. Not that I can recall.

Question. Did you have meetings with Mr. Livingstone in those first months at the White House?

Answer. Frequently, yes.

Question. Could you describe those meetings?

Mr. RYAN. Well, do you want—can you recall specifically every meeting you had?

The WITNESS. Of course not.

EXAMINATION BY MS. COMSTOCK:

Question. Can you generally describe what meetings you had with H.R. Livingstone and what the purpose of those meetings were?

Answer. At that time my investigation went directly to him—through him to the FBI and was returned from the FBI through his office to me. So 99 percent of questions were procedures for that, and procedures for the White House pass request I also had to send through him, and he in turned sent it to Secret Service. So it was just procedures that we were setting up.

Question. Had that been the prior practice of the prior administration?

Answer. Yes.

Question. Had you gone through Ms. Dannenhauer with all of your paperwork to the FBI and then again to the Secret Service?

Answer. Yes, except for old building passes and any OEB passes I could give directly to the Secret Service. White House passes only and permanent passes went through Craig's office.

Question. Again, was that the same process—can you describe was that the same process you used with Ms. Dannenhauer?

Answer. Yes.

Question. Just a representative person who would come work in OA, the Office of Administration, they would go through their preinterview process with you?

Answer. That is correct.

Question. Then they would submit their SF-86 to you?

Answer. That is correct.

Question. And you would review that?

Answer. Me or my assistant, yes.

Question. Who is your assistant?

Answer. Right now I have one, Mark Frownfelter.

Question. Could you spell that?

Answer. F-R-O-W-N-F-E-L-T-E-R.

Question. Could you identify any assistants you have had since January 1st, 1993 forward, if there are any others?

Answer. Mark Frownfelter.

Question. Is he the only assistant you have had?

Answer. Yes.

Question. Upon—

Answer. Let me correct that. I'm sorry. Last month I was able to—at the beginning of last month, I was able to hire a young lady who is still in school, and she worked for me for 2 weeks. and when

the issues came up within the last month, they decided even though she had a investigation and had clearances and everything, she shouldn't be working in the Security Office, and they removed her.

Question. And who was that?

Answer. Courtney Hopkins.

Question. And so to return to this process by which you would move the paperwork after you reviewed the SF-86 of a person, for example, from the Office of Administration, it would then go to Craig's office?

Answer. That is correct.

Question. To your knowledge, what would then be done with that paperwork?

Answer. He would forward it on to the FBI.

Question. And then the FBI background investigation would be conducted?

Answer. That is correct.

Question. And that would be returned to Mr. Livingstone or Mr. Kennedy?

Answer. Mr. Kennedy.

Question. And then did you ever see it after that at any time?

Answer. Oh, yes, yes.

Question. And how would that work? How would you get back into the process?

Answer. Mr. Kennedy would give the investigation to Craig. Craig would return it to me.

Question. And then would you forward it to the Secret Service for a pass?

Answer. If it was for an old building pass or new building pass. If it was for a White House pass, I would prepare the paperwork for the White House pass and send it to Craig, who in turn would send it the Secret Service.

Question. That would be if there was someone who came under your bailiwick, a career person, in these office that you have identified, if they actually needed a White House pass to the White House, to the West Wing would that be?

Answer. White House pass.

Question. That that would go through Craig and Bill Kennedy to the Secret Service instead of you directly forwarding it to the Secret Service?

Answer. It went to Craig. I don't know about Bill Kennedy.

Question. Did Mr. Kennedy ever tell you anything about how Mr. Livingstone came to be hired at the White House?

Answer. No.

Question. Did he ever discuss Craig Livingstone or his background or anything related to Mr. Livingstone's background with you?

Answer. No.

Question. How often did you see Mr. Livingstone in the course of your duties from 1993 to the present—I guess until June 26th when he resigned?

Answer. We would interact one way or the other daily.

Question. Could you describe generally what those daily interactions would be, how frequent?

Answer. Daily is daily; every day of the workweek.

Question. Would you see him once a day, or would you be in the office for hours at a time, or could you describe what those contacts were generally?

Answer. I never spent hours in the office with him, but we would sit down in short meetings, and certainly we talked on the telephone involving cases or passes or whatever in the course of a normal day's business.

Question. Would you discuss the background investigation with Mr. Livingstone then?

Answer. Sometimes, yes.

Question. And would you discuss some of these suitability issues that we have previously discussed as it pertained to particular individuals that you were forwarding?

Answer. Sometimes, yes.

Question. Were you aware of Mr. Livingstone being interested in obtaining a position in the White House Military Office?

Answer. I don't think it was any secret that Craig wanted to be Director of White House Military Office.

Question. Why do you say that?

Answer. He told me.

Question. Do you recall when he told you that?

Answer. Several times over a period that I have known him. Probably the first time was—the first time I met him in February of 1993.

Question. Could you recall what he said the first time you met him regarding the Military Office?

Answer. That he really wanted to be Director of the White House Military Office.

Question. Did he indicate that he may not be interested in the position in the Office of Personnel Security because he was going to be moving on to that position?

Answer. I don't think he ever indicated he was going to move on that position, he just indicated his desire to have that position.

Question. Did you discuss that with him at all, what that job involved?

Answer. No.

Question. Did you ever discuss with anybody else whether or not Craig Livingstone was suitable to be head of the White House Military Office?

Answer. No.

Question. Did anyone ever consult with you at any time regarding whether Mr. Livingstone was suitable to be head of the White House Military Office?

Answer. No.

Question. And you said you think Mr. Livingstone had mentioned this Military Office position at some other time also?

Answer. I am sure in the course of conversation he mentioned it several times, yes.

Question. Did he ever discuss with you who he was talking to about this position?

Answer. No.

Question. Were you aware of him talking to Harry Thomason about him seeking the Military Office position?

Answer. I am not aware of any conversations he had with anybody concerning the job at the White House Military Office.

Question. You are not aware of him contacting George Stephanopoulos about this position?

Answer. No.

Question. Did you do any briefings of Mr. Livingstone regarding the background process?

Mr. RYAN. I object to the form. If you could just make it a little—

EXAMINATION BY MS. COMSTOCK:

Question. With regard to the process of obtaining White House passes and security clearances and FBI backgrounds, any of the things that you do, did you impart any of your knowledge or information you had about this—how this process was conducted to Mr. Livingstone at any time?

Answer. Yes.

Question. Do you describe how that came about?

Answer. Well, Craig was brand new to the job and did not understand what procedures were in place. I think Jane Dannenhauer and Nancy Gemmell certainly provided most of the briefing to him, but from time to time he asked my advice on what they were doing, if there might be a way to improve it, and we would discuss it.

Question. Do you recall generally any of the areas that he asked your advice on?

Answer. Well, we talked about passes, we talked about the issuance of passes, we talked about the way the background investigations were initiated, completed and returned to me.

Question. Did you discuss with him suitability issues and how to review files for suitability?

Answer. Yes, I did, and recommended some training.

Question. And to your knowledge did Mr. Livingstone obtain any training on the suitability matters?

Answer. I am not sure if Craig went himself, but his folks—two of his people attended an OPM adjudication course.

Question. Do you know who those individuals are?

Answer. I think it was three actually; Ed Hughes and Lisa Wetzl I think went for sure.

Question. Do you know if anyone attended any of these seminars in 1993?

Answer. It may have been late 1993, early 1994 they attended. I am not sure of the dates.

Question. You don't know if Craig Livingstone attended any of these seminars?

Answer. I don't know, no.

Question. And do you know when Ed Hughes first came to the Office of Personnel Security?

Answer. He has been there twice, I think, once as an intern, and the last time he has probably been there about a year, year and a half. I am not sure of the dates.

Question. Do you know when he attended the seminar generally, whether it was this year or 1993; can you place it in any time frame?

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Mr. RYAN. What does this have to do with the Travel Office? What is them going—

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Ms. COMSTOCK. Mr. Ryan, you had said that this witness would be discussing the Filegate matter, and that is what this is related to, the Filegate matter.

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Mr. RYAN. I am trying—frankly. I am giving you a great deal of latitude, but tie it up a little bit, if you will, for me because when you ask some of these specific questions, we are pretty far afield now, and I frankly don't mind, but it seems to me at a certain point we need to get back on to the Travel Office. But go ahead.

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The WITNESS. I am sorry, what is the question?

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EXAMINATION BY MS. COMSTOCK:

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Question. Can you place it in a year, or whether it was recently that Mr. Hughes attended this seminar, or in 1993?

Answer. I would say probably 1994/1995. That is as close as I can get it.

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Question. Did there come a time when you met Anthony Marceca?

Answer. Yes, I met Tony.

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Question. Do you know what time frame you met Mr. Marceca?

Answer. It would have been probably the first week he was detailed to the White House. I think that is October of 1994, but I am not 100 percent sure of the date.

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Question. The records we have received, if it would assist you, is that Mr. Marceca began work at the White House in August of 1993.

[Discussion between counsel and witness.]

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The WITNESS. If that is what the record shows, I would have met him the first week he was there.

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EXAMINATION BY MS. COMSTOCK:

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Question. Prior to his beginning work in the office on his detail, were you aware of Mr. Marceca having regular access to the White House from March of 1993 forward?

Answer. No.

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Question. Do you have knowledge of how the access policy works at the White House, getting Secret Service access by being put on an access list?

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Answer. Yes, I am now.

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Question. Could you describe that process?

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Mr. RYAN. As it exists now, or as it existed then?

EXAMINATION BY MS. COMSTOCK:

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Question. In 1993, to your knowledge, how it operated.

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Answer. I knew they had an access list, but I have no idea how it operated.

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Question. Was this not something you were aware of at that time?

Answer. I did not do an access list. I don't have access lists.

Question. Did you not put your employees then on Secret Service access lists at any time?

Answer. Not on an access list, no.

Question. What was the process that you followed to get your employee—EOP employees to the White House?

Answer. When an individual starts working, I would put them on a 2-week pending pass list—I am sorry, back then it was a 30-day pending pass list, and during that 30-day period they had to complete their security forms and hand them in. Once the security forms were turned in, we would issue a temporary pass.

Question. And what if somebody did not turn in their back—their paperwork prior to 30 days, what did you do?

Answer. They had a lot of time to sit at home and do their forms.

Question. So you would not allow someone to stay on then after 30 days?

Answer. No.

Question. Were you aware in 1993 that there were people who hadn't turned in their paperwork, hundreds of people at the White House who hadn't turned—new employees in the White House office hadn't turned in their paperwork for over 100 days?

Mr. RYAN. I object.

Ms. COMSTOCK. I am just asking if the witness has knowledge of it.

Mr. RYAN. I object on pertinency grounds. I will let him answer the question, but again, this has nothing to do with the Travel Office, nothing. It doesn't even have anything to do with the file issue at this point.

But go ahead and answer the question.

The *WITNESS.* I knew there were those who had not turned their form in, but I was not aware that there were hundreds.

EXAMINATION BY MS. COMSTOCK:

Question. Did there come a time when you became aware from press reports of problems with Craig Livingstone's office and Mr. Kennedy's office obtaining White House passes for new White House employees?

Answer. I read articles in the papers, but I don't necessarily believe everything I read in a paper.

Question. Did you have any independent knowledge of that?

Answer. That there was a delay in issuing passes, yes.

Question. How did you come to know that?

Answer. Discussions with Bill Kennedy and Craig Livingstone.

Question. Could you describe those discussions?

Answer. We talked about—well, my question to them was very simply why he was not issuing the pass.

Question. Your question to who?

Answer. To both Bill and Craig is, why are you not issuing White House passes.

Question. You were aware they were not issuing permanent White House passes?

Answer. Yes.

Question. Were you aware they were issuing temporary passes to people who had not turned in any of their paperwork?

Answer. Yes.

Question. You had testified it was not your practice to issue temporary passes to people who had not turned in their paperwork; is that correct?

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Answer. That is correct.

Question. Did you ever discuss with Mr. Kennedy or Mr. Livingstone whether or not you thought this was a good idea to issue temporary passes to people who hadn't turned in their paperwork?

Answer. I doubt it.

Question. And could we return to then this discussion you had with Mr. Kennedy and Livingstone about your asking them why they didn't issue passes?

Answer. I just expressed a concern that they need to get the permanent passes issued to their folks.

Question. Why were you concerned about that?

Answer. Because there are people walking around with temporary passes.

Question. And why were you concerned about people walking around with temporary passes?

Mr. RYAN. We are so far off the track of the Travel Office right now that at some point you are going to have to bring it back. We can't go down this road forever. This is the second time I have raised it. There is no pertinency to this on the Travel Office.

Ms. COMSTOCK. Mr. Ryan, we have discussed extensively, and maybe you have not reviewed the White House Management Review, but Harry Thomason, who obviously was a key figure in the White House Travel Office, had a pass to the White House, as did lots of other people, and lots of people had temporary passes, and there was virtually no control over passes in 1993, which a GAO report—

Mr. RYAN. What does that have to do with the Travel Office and—

Ms. COMSTOCK. The problems that came about by having unauthorized people have regular access to people was one of the items that was identified in the White House Management Review as contributing to the problems that caused all of this in the first place. Now this witness has said he knew there were problems. There were people obtaining permanent passes.

Mr. RYAN. The issue of whether there were or weren't problems with passes has nothing do with the White House Travel Office.

Ms. COMSTOCK. Yes. It is a matter of behavior. The White House's behavior we are looking at, and to the extent that the witness has knowledge of it. We aren't looking at things in a vacuum.

Mr. RYAN. We are very far afield. We have been afield for some time now. Continue to ask these questions, but at a certain point you have to stay with what is—first of all, the committee does not have the authority to take depositions under oath except with respect to the Travel Office.

Ms. COMSTOCK. I have described time and time again that the White House passes are included in this. I understand you have a disagreement, but I think we have made clear that the Chairman is determining the scope of this investigation. You have represented to the Chairman that you are going to answer all of these questions except for the drug things, which we are holding in abeyance for today. Could we continue with the discussions—

Mr. RYAN. We are not even close to pertinency, but go ahead. I am trying to accommodate, frankly, the committee, because I think we are here to do that today, but at a certain point I am going to

cut it off and get the Chairman back. I am saying stick to the things that are important. Even when they are important to that they are impertinent because at a certain point the impertinent stuff is not going to be answered anymore.

EXAMINATION BY MS. COMSTOCK:

Question. Could you describe these—could you continue to—these discussions you had with Mr. Kennedy and Mr. Livingstone about people not obtaining passes, do you recall when those discussions occurred?

Answer. We probably talked about them several times, and we had specific meetings in early 1994, I believe, on those things, on those issues.

Question. Were you aware of the Secret Service raising concerns about this also?

Answer. The Secret Service would not have discussed their concerns with me.

Question. To your knowledge, what was Mr. Marceca's job in the Office of Personnel Security?

Answer. As I understood his job, his job was to review the SF-86s and forward them to the FBI.

Question. And on occasions did you forward SF-86s to Mr. Marceca?

Answer. I forwarded the SF-86 to Craig's office. I am sure he worked on some of them, yes.

Question. Did you ever discuss any SF-86s with Mr. Marceca?

Answer. From time to time he finds information missing on a particular SF-86 and he would call us to get it, yes.

Question. Did you have any knowledge of Mr. Marceca's background?

Answer. Only what he told me.

Question. And what did he tell you?

Answer. That he was a fraud investigator with the Army CID.

Question. Were you aware of him having worked with Craig Livingstone previously in a political context?

Answer. Not until I read it in the paper recently.

Question. To your knowledge, did he have any security clearances at that time?

Answer. I don't know.

Question. Did you have any knowledge of whether Mr. Marceca had a temporary or permanent pass while he was at the White House?

Answer. I believe he had a temporary pass, but that would have been changed to a permanent pass upon the completion of an investigation.

Question. To your knowledge, was his investigation ever completed?

Mr. RYAN. Did you have anything to do with his—

The WITNESS. At that time, no, I did not.

EXAMINATION BY MS. COMSTOCK:

Question. So your only knowledge of Mr. Marceca's background would be in recent press reports; would that be accurate?

Answer. No, no, since I assumed my new job I have been assisting the Independent Counsel in their searches in the office, so I have additional information.

Question. Could you describe what information you have, your knowledge of Mr. Marceca's background?

Mr. GOLDBERG. I object.

Mr. RYAN. Thank you.

Mr. GOLDBERG. That goes to the Independent Counsel's issues. I think the Chairman has agreed that is off the table.

The WITNESS. It is an ongoing investigation.

EXAMINATION BY MS. COMSTOCK:

Question. Aside from—aside from your conversations of what Mr. Marceca told you about his own background, did Mr. Livingstone ever tell you about any problems that came up about Mr. Marceca's background?

Answer. No.

Question. Did Mr. Livingstone tell you anything about why Mr. Marceca was not kept on at the White House?

Answer. No.

Question. Do you have any knowledge of why he was detailed at the White House?

Answer. No.

Question. Did you have any discussion was Mr. Kennedy about that?

Answer. No.

Question. Did you have any discussion was Mr. Marceca when he left the White House?

Answer. No.

Question. After Mr. Marceca left the White House, at or about February of 1994, were you aware of him being frequently at the White House after that?

Answer. No.

Question. Were you aware of him having—continuing to hold a temporary pass after he left his detail position at the White House?

Answer. At that time, no. Recent knowledge I have gained, yes.

Question. And have you gained that knowledge outside of the information you are talking about with the Independent Counsel?

Answer. Yes.

Question. Could you describe how you obtained that knowledge?

Answer. I learned that Mr. Marceca had a temporary volunteer pass that was deactivated May of 1995, and since then he has been on the volunteer access list.

Question. To the present time?

Answer. No.

Question. When did that end?

Answer. I removed it June the 21st, I believe.

Question. How did you come to learn that Mr. Marceca had that temporary voluntary pass in May 1995, in the form of a volunteer access list?

Answer. Secret Service advised me.

Question. Did they call you to advise you about this?

Answer. Yes.

Question. And who called you?

Answer. The Office Manager, Janet Freedline.

Question. Can you describe that discussion?

Answer. She called me and wanted to know if I was aware that even though Mr. Marceca's pass had been deactivated, he was still on the volunteer access list.

Question. And what did you tell her?

Answer. Thank you.

Question. Do you recall at or around what date she made this call to you?

Answer. June the 21st.

Question. And what did you do when you learned that information?

Answer. Picked up the telephone, called the WAVES center and had his name removed.

Question. Did you discuss that with anybody else at the White House.

Mr. RYAN. Before doing or after?

Ms. COMSTOCK. Either before or after.

The WITNESS. Not before.

EXAMINATION BY MS. COMSTOCK:

Question. So you had this phone call with Ms. Freedline, you hung up the phone, and did you immediately call the WAVES center to get him off that access list?

Answer. Yes.

Question. You did not discuss that with anyone when you did that?

Answer. No.

Question. And does that fall—that fell under your duties at that time to remove Mr. Marceca from the access list?

Answer. Yes.

Question. At that time had the White House appointed you to this position, your new position?

Answer. The announcement was made June the 19th.

Question. Okay. And after you made that call, did you discuss it with anybody at the White House?

Answer. I don't think so. I don't recall discussing anything with anybody.

Question. Did you recall informing anyone in the Counsel's Office about that?

Mr. RYAN. I would assume that "anyone" would include the Counsel's Office, but if it helps jog his memory—

The WITNESS. No, I don't think so.

EXAMINATION BY MS. COMSTOCK:

Question. To your knowledge, no one at the White House was aware that Mr.—or do you have any knowledge if anyone at the White House besides you knew that Mr. Marceca was on a volunteer access list as of June 21st, 1996?

Answer. Well, I would have to assume that the Director of the White House Volunteer Office knew.

Question. And who would that be.

Mr. RYAN. Do you know?

The WITNESS. Do I know that she knew? No, I don't know.

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EXAMINATION BY MS. COMSTOCK:

Question. Do you know who the Director of the Volunteer Office was?

Answer. Shelly—I can't remember her last name, first name is Shelly.

[Discussion between counsel and witness.]

EXAMINATION BY MS. COMSTOCK:

Question. At that time, did you make my attempts to find out when Mr. Marceca had been at the White House recently?

Answer. No.

Question. Do you know if he had been at the White House in 1996 at all, to your knowledge, had you seen him in the White House in the past year or so?

Answer. No.

Question. Did you—have you learned what he was doing with the volunteer access?

Answer. I haven't asked.

Question. Who do you regularly work with—did you regularly interact with anyone at the FBI in your process or was that previously handle prior to June 19th, 1996, was that handled by Mr. Livingstone, or did you have a contact at FBI that you worked with?

Answer. I—the process was changed in late—well, I am not sure the date the process changed and I started dealing directly with the FBI, so, yes, I had a relationship with the FBI.

Question. Can you generally describe when that process was changed?

Mr. RYAN. Which administration? Let's start that way.

The WITNESS. It wasn't the Clinton administration. The exact date, I am not sure, but they agreed I should deal directly with the FBI and have the FBI return the background investigations for the career folks directly back to me.

EXAMINATION BY MS. COMSTOCK:

Question. Can you place that in time in the past year, or if it was in the early administration or late?

Answer. My memory says May 1994.

Mr. RYAN. Do you know? That is your best memory?

The WITNESS. That is my best memory.

EXAMINATION BY MS. COMSTOCK:

Question. And who was your contact that you worked with at the FBI?

Answer. There are several.

Question. Could you identify who those are?

Answer. We deal with two different elements of the FBI. We deal with the Name Check folks, the person in charge of the Name Check was a lady by the name of Peg Larson; we deal with the Special Background Investigation Unit, and the gentlemen in charge there is Jim Bourke, B-O-U-R-K-E.

Question. Can you describe what you did with the Name Check Unit?

Answer. I am sorry?

Question. How you interacted with the Name Check Unit and what you did?

Answer. Yes.

Question. Can—

Mr. RYAN. What does this have to do with the Travel Office?

Ms. COMSTOCK. This is the Filegate matter.

[Discussion between witness' counsels.]

Mr. RYAN. I don't understand the pertinency of it. I am going to accommodate you, and let's continue for a while on this, but at some point we have to stay with the Travel Office or even his knowledge about the Filegate issue, which would at least give us some tangential into pertinency that then may suggest to us why we are going into these hearings.

Ms. COMSTOCK. I will note our ongoing disagreement with the scope of the investigation and the matters addressed to it, for the record.

EXAMINATION BY MS. COMSTOCK:

Question. I think the pending question was, what was your interaction with Peggy Larson in the Name Check Unit?

Answer. We would conduct—

Mr. FELD. Peggy Larson?

The WITNESS. Peggy Larson, we would conduct a name check, an FBI name check on potential employees or new employees, people who were coming to work on the career side of the White House.

EXAMINATION BY MS. COMSTOCK:

Question. Were these individuals who had been selected for a position that you would do a name check for or—what was the process? Maybe we will pick this person, let's run a name check, or was it—how far along in the process were you in hiring someone before doing a name check?

Answer. It was people who were identified they wanted to hire for a position.

Question. These were—it wasn't just sort of this is a pool of people who we might hire, to do a name check?

Answer. Absolutely not.

Question. Do you know of any instances where someone—they said just run a name check on a friend of mine, let's see what is there, I don't know if we are going to consider them for a position or not; was it that informal, or did you—when you did name checks did there need to be a purpose?

Mr. RYAN. Answer the question specifically, which is were you ever asked to run a name check in a situation where the person said this is a friend of mine and they were not—they were not designated for a particular position. Answer very specifically, because it was a very specific question.

The WITNESS. Absolutely not, no.

EXAMINATION BY MS. COMSTOCK:

Question. It was your understanding of the process you should only run name checks of the people who had been designated to have positions at the White House?

Mr. RYAN. Are you asking his practice?

EXAMINATION BY MS. COMSTOCK:

Question. What was your practice?

Answer. Not White House, I had nothing to do with the White House.

Question. The career side, the people at the EOP?

Answer. Chuck Easley's integrity is this: He doesn't conduct a name check on anybody unless they are a potential candidate for hire identified by the agencies that I support.

Question. And let me just—why don't I discuss for the record, I am not addressing this—anything to you. I am trying to understand the process by which you operate and your understanding of name checks.

We have received voluminous records of name checks that came out of Mr. Livingstone's office, and I am just trying to understand why people who apparently were not considered for positions, or at least represented they were not considered for positions, were on a name checklist, and I am not attributing that in any manner to you. I am just asking you if you have any knowledge of people having name checks done on them either out of Mr. Livingstone's office or requests made to you of people who you knew were not being considered for a position?

Answer. That sounds like two or three questions. If you want to ask me one at a time, I would be happy to answer them.

Question. Do you know of any situations where people who were not being considered for a position at the White House where a name check was requested for them?

[Discussion between counsel and witness.]

The WITNESS. My best answer to you is that I was not involved and did not have any knowledge of any requests from the White House for name checks for files on people who did not work at the White House.

EXAMINATION BY MS. COMSTOCK:

Question. Do you recall when you first learned about the obtaining of Billy Dale's FBI background files 7 months after he had left the White House?

Mr. RYAN. Let's establish the date that is 7 months after the White House—

EXAMINATION BY MS. COMSTOCK:

Question. Did there come a time when you learned that Mr. Dale and the other Travel Office employees were going to be fired?

Answer. When I read it in the newspaper.

Question. So your knowledge of Travel Office employees being fired in May of 1993, was after the fact, in the newspaper accounts?

Answer. After the fact, and only what I read in the newspaper.

Question. Had you heard any rumors or anything prior to the firings that the firings were going to occur?

Answer. I wouldn't testify to rumors I don't know.

Question. I am asking if you were aware—strike that.

Did Mr. Livingstone ever discuss with you prior to the firings anything about the Travel Office employees?

Answer. No.

Question. Did Mr. Kennedy ever ask you about the Travel Office employees at all?

Answer. No.

Question. Subsequent to the firings, did Craig Livingstone talk to you about the Travel Office employees?

Answer. No.

Question. Have you ever had any discussions at any time with Craig Livingstone about any Travel Office employees?

Answer. Not to my recollection.

[Discussion between counsel and witness.]

EXAMINATION BY MS. COMSTOCK:

Question. Now, the Travel Office employees, their background investigations went through Mr. Livingstone's office; is that correct?

Answer. That is correct.

Question. At any time did they ever go through your office?

Answer. No.

Question. Did there come a time when you learned that Mr. Dale's background, FBI background file had been requested by the White House after Mr. Dale had been fired?

Answer. Reading it in the Washington Post, yes.

Question. And since learning that in the newspapers have you had any discussions with anybody at the White House about the obtaining of that file?

Answer. No.

Question. That would include anyone in the Counsel's Office?

Answer. No.

Question. Just so I can make it clear, you aren't claiming any privileges then, of any conversations in the Counsel's Office?

[Discussion between counsel and witness.]

Mr. RYAN. In an effort actually to accommodate you, you asked—you are asking very precise questions, and you run the risk of getting answers that are narrower than you seek. You asked if anybody at the White House had talked with him about the Dale file, and the answer he gave was no.

You may want to ask about other lawyers associated with the White House, running the White House complex, so that you get a complete answer to that.

Ms. COMSTOCK. When I am saying the White House, would it be correct to say you are not including the EOP, is that where we are having a communication problem?

Mr. RYAN. I think if you ask too precise a question, he is a criminal investigator by background, he is going to answer the question you are asking. I am trying to help you get your information you are seeking.

Ms. COMSTOCK. Why don't I say for the record, when I ask did you talk to anybody at the White House, I am including people at

EOP and people you worked with at White House, understanding that the EOP is separate from the White House and they are different careers and people, but I am talking about generally whether you talked to OA Counsel or anything like that. So I apologize, by my saying White House that has unduly limited your understanding of what I was asking.

Mr. RYAN. I think the specific question pending, just to clarify the record, is the premise of the question was that Billy Dale's file at some point was re-requested or requested by the White House after he had been fired?

Did you ever have a discussion with anyone in the White House, as broadly defined, about that issue?

The WITNESS. Very recently, yes.

EXAMINATION BY MS. COMSTOCK:

Question. And who did you have those discussions with?

Answer. Nelson Cunningham, the OA General Counsel.

Question. And could you describe those discussions?

Mr. RYAN. It is really a privileged matter, let me proffer what it is for the record, the file was turned over to the Independent Counsel. Mr. Cunningham told Mr. Easley about that file being turned over because, in essence, that file would be part of the White House files that might have been under his control, but that it was turned over to the Independent Counsel, so it deals with the Independent Counsel and it may also impinge privilege issues at White House in the sense of just how—if you want to go down this road, ask him, but I am trying to get you the central core of it, is that the file was turned over to the Independent Prosecutor's office.

EXAMINATION BY MS. COMSTOCK:

Question. Mr. Cunningham was informing Mr. Easley of that process; is that correct?

Answer. The purpose of the file not being there, yes.

Question. Have you had any conversations with Mary Beck about any of the matters related to obtaining Mr. Dale's file?

Answer. I probably had the same discussion with her because she is my immediate supervisor.

Question. Had discussions about Mr. Dale's file going to the Independent Counsel?

Answer. Yes, in a general knowledge.

Question. And is Mary Beck still your immediate supervisor at this time under the new organization as of June 19th?

Answer. The answer is yes.

Question. Did Mr. Livingstone ever consult with you about what should be done with FBI background files of people who had left the White House?

Answer. No.

Question. Did he ever discuss with you any processes of how to maintain FBI background files as they came in from the FBI?

Answer. No.

Question. Did you do any training or provide any advice to Mr. Livingstone regarding security clearances?

Answer. Yes.

Question. Can you describe that process?

Mr. RYAN. What has that got to do with the White House Travel Office? I believe Mr. Easley was the individual giving Mr. Livingstone his security clearance in December 1995.

What does that have to do with the White House Travel Office?

Ms. COMSTOCK. Discussing the Filegate matter and the Travel Office, Mr. Livingstone was involved in both, whether or not he had a clearance and whether—it was Exhibit 1, Craig Livingstone—

Mr. RYAN. As long as we are asking a specific question about Mr. Livingstone.

Ms. COMSTOCK. I am asking about the general process, also what his involvement was in advising Craig Livingstone in the security clearance process.

Mr. RYAN. Unrelated to Mr. Livingstone, his own security clearance?

Ms. COMSTOCK. Yes.

Mr. RYAN. And again we are completely—

Ms. COMSTOCK. How Mr. Livingstone obtained his security clearance may relate also to how generally that process occurred and whether or not Mr. Livingstone's process was different or the same as anyone else's, and I would like to know what that process is before determining it.

Mr. RYAN. Let's see if he has any knowledge—

Ms. COMSTOCK. I would like to know what that process is and what advice—

Mr. RYAN. Did you have that process under your control by which Craig Livingstone was granted his clearance?

The WITNESS. Yes, I did.

EXAMINATION BY MS. COMSTOCK:

Question. Could you describe what the process is?

Answer. Starting in October of 1995, we started granting formal security clearances to White House staff, and in that process I would grant the formal security clearance.

Question. And could you describe what the process was?

Mr. RYAN. In Mr. Livingstone's case?

Ms. COMSTOCK. No, in general.

The WITNESS. In general?

EXAMINATION BY MS. COMSTOCK:

Question. Yes.

Answer. We would—I would receive a request from Craig Livingstone for clearances for certain people. I would review the background file and I would base my decision to grant or not grant a top secret clearance based upon my review.

Question. Craig Livingstone's case, did you review Mr. Livingstone's file?

Answer. No, I did not.

Question. And why not?

Answer. It was in the possession of Chris Cerf, White House Counsel. Chris Cerf assured me there was no problems, and I took his word for it.

Question. Are there any other instances where you did not review the file and took Chris Cerf's word for it?

Answer. No.

Question. Can you explain why you did so in this matter, in this case of Mr. Livingstone?

Answer. In hindsight, it was a mistake, but it is what I did.

Question. Can you explain—did you go to Mr. Cerf and ask Mr. Cerf for Mr. Livingstone's file to review?

Answer. No.

Question. What do you normally do when you are reviewing a security clearance of somebody if you get their file to review?

Answer. If it is—in the case of a White House person, I would go to Room 84 and review the file there.

Question. Every other instance besides Craig Livingstone you were able to review the file?

Answer. That is correct.

Question. So at some point in 1995—I guess I am going to make this Exhibit 1, it is CGE 46164, it is a December 14th, 1995 security determination for David Craig Livingstone for position of Director of White House Personnel Security Office, and the agency is General Counsel. It says his clearance was granted as of December 14th, 1995.

Mr. RYAN. Could I see a copy of it?

Ms. COMSTOCK. This is CGE 46164, then there is an attachment to it that is a two-sided attachment, so it goes through 46166. [Easley Deposition Exhibit No. 1 was marked for identification.] [Discussion off the record.]

Mr. RYAN. Is there a question pending?

Just ask the witness one so we can get back into the flow. I have no idea what the question pending was.

Ms. COMSTOCK. I think we were discussing Mr. Livingstone's security clearance and I think actually I do want to return to the general process.

EXAMINATION BY MS. COMSTOCK:

Question. Could you describe the discussions that you had with Mr. Livingstone or anyone else in this office about the security clearance process.

Mr. RYAN. That has been asked and answered a few minutes ago, in a sense.

Ms. COMSTOCK. We got in this area with that general question. Before we leave this area, I think the record is unclear and I would like the leeway to ask him two questions to get information specifically about the Craig Livingstone issue.

I will get specifically into Craig Livingstone. I want to be able to get a sense, a little bit better sense of the general process, then I will return to the specific process in Craig Livingstone's case.

Mr. RYAN. Go head and ask your question.

EXAMINATION BY MS. COMSTOCK:

Question. Could you describe your explanation as to Craig Livingstone on the security clearance process?

Mr. RYAN. I don't know what that is.

EXAMINATION BY MS. COMSTOCK.

Question. What discussions did you have with Craig Livingstone about the security clearance process and when did—when did you have discussions with him, first?

Answer. We had many discussions concerning granting formal security clearances, over the period January 1993 to when we started granting the clearances in October of 1995.

Question. Prior to October 1995, were you involved in doing security determinations for White House employees, the political people?

Answer. Prior to October of 1995, if the White House did not grant a formal security clearance, no, I was not involved.

Question. To your knowledge, did the White House grant formal security clearances prior to October of 1995?

Mr. RYAN. Did any one White House grant—

The WITNESS. Any White House? The two previous administrations did not either.

EXAMINATION BY MS. COMSTOCK:

Question. Was your understanding that prior to October 1995, the process was when you received your permanent pass, that you had a certain level of clearance, that was one way of—

Answer. With Reagan and Bush and the beginning of the Clinton administration, once an individual was issued a permanent White House pass, they would indicate the individual would have access up through top secret information based on a need-to-know.

And I would like to clear up a previous thing; I did not review Craig's file, but in May of 1993, the adjudicators at CIA came in and reviewed his file and granted him access to their Special access program.

Question. CIA, Central Intelligence Agency reviewed Craig Livingstone's background file in May of 1993?

Answer. That is correct.

Question. And you learned that in May of 1993?

Answer. Yes, because I—no—yes, because I was asked to do the indoctrination for the special clearances, but was unavailable so they brought someone else in.

Question. I am sorry, could you explain what the indoctrination on special clearances is, what you mean by that?

Mr. RYAN. Explain what a Special Access program is; is that higher or lower than top secret?

The WITNESS. Nothing is higher than top secret. A Special Access/Limited Control is a program, and they limit very strictly the people who have access into their programs. And before an individual can have access to their information, they must sit through what we call an indoctrination.

We have to explain to the people what the programs are and what protections are required to give these programs, basically explain the program to them. They have to sign a nondisclosure agreement similar to the SF-312, but it is a CIA form.

EXAMINATION BY MS. COMSTOCK:

Question. And in May of 1993—I am sorry, I am a little confused. You said the CIA reviewed Mr. Livingstone's file, but at that time, you did not?

Answer. I had no connection with the White House at that time.

Question. How did you come to know about this?

Answer. I believe I answered that before. I said the CIA asked me to do the indoctrination and I was not available, so they brought someone out from the agency to do it for him.

Mr. RYAN. Would it be fair to call the Special Access program access to the Nation's ground rules?

The WITNESS. Close to it, yes.

Ms. COMSTOCK. I am sorry, could you further clarify that?

Mr. RYAN. Did you depend upon that adjudication that was done by—

Ms. COMSTOCK. Mr. Ryan, could I ask the questions here?

Mr. RYAN. Sure, but I am trying to help you out.

Ms. COMSTOCK. I want to ask the witness to explain.

EXAMINATION BY MS. COMSTOCK:

Question. In May of 1993, this indoctrination program by the CIA, who were you called by to ask to do this, if you recall?

Answer. There are many contacts at CIA and I am not sure which one would have called me, but the thing was needed to be done in preparation for a meeting with CIA, that we must have clearances before we could sit and talk to them, obviously. When I was not available, they sent somebody out from the Training Division to do that indoctrination.

Question. Do you know who the individual was in the CIA?

Answer. I have no idea.

Question. Do you know who the individuals are for the CIA?

Answer. There are several people.

Mr. RYAN. I object, I don't want you identifying CIA personnel on the record, of a record that could be in the public.

Do you really want to do that? We would be glad to provide them to you.

Ms. COMSTOCK. That is fine, if you can provide the names of individuals—

Mr. RYAN. I don't know that the Security Office of the CIA would not want to be known in a public proceeding.

Ms. COMSTOCK. I was not under that understanding. But if that is the case, I will leave that and you can provide those names off the record, because, obviously—

Mr. GOLDBERG. Why don't I suggest that you provide those, provided they are not classified.

The WITNESS. A lot of these people are identified by first name only.

Mr. GOLDBERG. If, in fact, they are classified, you can provide it later.

Ms. COMSTOCK. We can do that independently or on the record here.

EXAMINATION BY MS. COMSTOCK:

Question. So was it your understanding that someone came and briefed Mr. Livingstone at that time?

Answer. Yes.

Question. From the CIA?

Answer. Yes.

Question. And that individual reviewed Mr. Livingstone's file?

Answer. No.

Question. What was the purpose of that individual coming?

Answer. Let me get it straight on this. Some—they requested CIA clearances for Mr. Livingstone.

Question. Who requested?

Answer. Probably Bill Kennedy, the White House Counsel's Office.

Mr. RYAN. Do you know if Bill Kennedy did it or somebody in the White House did it?

The WITNESS. Somebody in the White House.

Ms. COMSTOCK. Why don't I make it Exhibit 2, this might assist you. This is a May 5th, 1993 memo, which is for James Farrell, Security Office, for the National Security Counsel, for William Kennedy, and the subject is "Compartmented Clearances." It says: This memorandum will serve as a request for access to sensitive compartmented information for the employ named here, the individual is Craig Livingstone. Since it had the same time frame, have you ever seen this document?

[Easley Deposition Exhibit No. 2 was marked for identification.]

Mr. RYAN. Have you ever seen the Exhibit 2 before?

The WITNESS. No.

Mr. RYAN. Were you aware of its existence at that time?

The WITNESS. I knew a request had to be made before you get the clearance.

EXAMINATION BY MS. COMSTOCK:

Question. Is this the type of request that would have involved the above briefing that you are talking about?

Mr. RYAN. Clear it up, that the adjudication comes before the briefing.

The WITNESS. What happens once this reaches the CIA, they send someone out from their Liaison Division, they come in and sit down and physically review the background investigation, making notes. They return to the CIA and they go into their Clearance Division with these notes and they provide a write-up, and someone in CIA's Clearance Division makes a favorable determination that the individual is clearable for access to SCI. They pass that along to the Training Division, who sent a person out to conduct the indoctrination for Mr. Livingstone.

Mr. RYAN. Did you depend on that adjudication when you were answering that prior question?

The WITNESS. Of course I did.

EXAMINATION BY MS. COMSTOCK:

Question. Your knowledge is that someone in May 1993 from the Clearance Division physically reviewed Mr. Livingstone's background file?

Answer. No, that is not what I said. I said someone in their Liaison Division came to the White House, they acted as agents, they reviewed the record, they took the information back to the Clearance Division and shared that information with the Clearance Division. The Clearance Division made a favorable adjudication that they could have access to SCI, they turned that over to their Training Division who came back to the White House and indoctrinated Mr. Livingstone.

Mr. RYAN. Let me clarify, you don't know that that was the process that particularly followed Mr. Livingstone's case, you just described the process as you understand it generally?

The WITNESS. That is correct.

Mr. RYAN. You do not know the process that was done in Mr. Livingstone's case, do you?

The WITNESS. Not in detail, just the normal procedures.

EXAMINATION BY MS. COMSTOCK:

Question. I think you testified you depended upon knowing that Mr. Livingstone went through that process?

Answer. Absolutely.

Question. But you don't know exactly what Mr. Livingstone went through?

Mr. RYAN. Do you know that Mr. Livingstone—

The WITNESS. I know the CIA cleared him for access information, yes.

EXAMINATION BY MS. COMSTOCK:

Question. Where did you learn that?

Answer. I already told you they called and asked me to do the indoctrination.

Question. So someone from the CIA informed you that Mr. Livingstone was cleared?

Answer. Was cleared for SCI.

Ms. COMSTOCK. If off the record you can provide that name for us?

Mr. RYAN. I will not do this in the record. I will do it consistent with your procedures. You go back and find out if they have any objection at CIA and I will talk to you about that, you know what I mean?

I don't want to breach any security procedures for the White House or CIA that are sensitive Government things.

EXAMINATION BY MS. COMSTOCK:

Question. Why don't we return to Exhibit 1, which is Mr. Livingstone's security determination. This clearance was granted on December 14th of 1995. Do you recall generally when you were first asked to do the security determination for Mr. Livingstone?

Answer. We started with the White House in October of 1995, and we did different divisions, and probably a few days before the date of this—I am not sure.

Question. Since Mr. Livingstone's office was the office that handled clearances for everyone else, was there ever any discussion about his office maybe going first or anything?

Answer. No.

Question. And so when you got a request to do a security determination, you—your normal process was you would go to the—you would review the file?

Answer. You have got to remember, these people have said they have access to top secret information based upon a need-to-know, and we just simply started granting a formal security clearance.

Question. But with everyone else, you said you did physically review their file; isn't that correct?

Answer. That is correct.

Question. How would you get that file? Would you go to Mr. Livingstone to get somebody's file?

Answer. I told you earlier that I would go to Room 84, which was the White House Security Office, and review the file in Room 84.

Question. You would review the file physically in Room 84?

Answer. That is correct.

Mr. RYAN. I think this is inappropriate, the witness has been in the chair since about 9:20. It is now 11:25. I think let's take a point of personal privilege, as they would say in court, take a walk, come back in 10 minutes and perhaps counsel and I can discuss off the record our schedule for the remainder of the day.

Ms. COMSTOCK. Thank you.

Ms. COMSTOCK. Back on the record.

EXAMINATION BY MS. COMSTOCK:

Question. We were discussing—sorry if we have to pick up a few things, sorry if I repeat myself here—we were discussing the May 5, 1993 memo, which is Exhibit 2. I believe you said there should be some kind of sheet over this?

Mr. RYAN. What does the word "confidential" mean to you as a security officer?

EXAMINATION BY MS. COMSTOCK:

Question. "Confidential" is stamped on the top of this Exhibit 2.

Answer. Classified defense information requiring special protection.

Question. Usually it would have a cover sheet on it indicating such?

Answer. Yes.

Mr. RYAN. Does a letter asking that someone be granted access to compartmented clearance, is that something not normally thrown out into the public?

The WITNESS. That is correct.

Mr. RYAN. Would it be your suggestion as the White House Security Officer that this letter not be in the record as Exhibit 2, but be somehow in a confidential appendix so that it is never made public?

The WITNESS. That is correct.

Ms. COMSTOCK. Well, the White House has not so informed us in any manner on these things. We have received—

Mr. GOLDBERG. Let me say for the record that regardless of being informed by the White House, the committee under its procedures in Congress has a responsibility to adequately protect national security information, in any case, and that actions by the White House doesn't relieve it of that responsibility.

Mr. RYAN. Are you the White House Security Officer?

The WITNESS. Yes.

Mr. RYAN. Are you saying as a White House matter that this should not be in the public record?

The WITNESS. With a confidential stamp on it, you know, it is classified defense information and should be protected as such.

EXAMINATION BY MS. COMSTOCK:

Question. And the fact that Craig Livingstone got a compartmented clearance, that is classified information?

Answer. In itself, no.

Question. So what exactly is classified information on this document?

Mr. GOLDBERG. I object to this. I don't know what the clearance level of other people in this room are. I know that Mr. Easley and myself are cleared, but couldn't vouch for anybody else. I think when you get into classified information—

Ms. COMSTOCK. On its face it did not appear that way to me. Maybe we will hold this in abeyance to further determine what the status of this document is. For the record, I will say we had not been given any information from anyone at the White House about anything about this particular document having any type of classified status.

Mr. RYAN. Let me state for the record that he is the White House Security Officer, and he just did. Therefore, I think your statement while correct, that in the past you had no such—

Ms. COMSTOCK. Yes. The White House in producing these documents made no such representation to us and haven't until this time, and this is the first time we have heard about this from anybody regarding Mr. Livingstone obtaining a compartmented clearance.

EXAMINATION BY MS. COMSTOCK:

Question. Could you tell us your understanding of what a compartmented clearance is? Is that something you can discuss?

Answer. Compartmented clearances are the responsibility of the CIA, and I don't care to discuss it.

Mr. RYAN. You will discuss it in a closed proceeding with the Chairman and staff who are appropriately cleared; will you not?

The WITNESS. Yes.

EXAMINATION BY MS. COMSTOCK:

Question. Do you have knowledge as to why Mr. Livingstone would be obtaining such a clearance, if you can discuss that?

Answer. Apparently, Mr. Kennedy thought he had the need to have access, and he requested access to the CIA.

Question. To your knowledge, did Mr. Livingstone's office review the NSC files or was that done separately by the NSC prior to June 19, 1996?

Answer. I wasn't involved in that operation. It would be pure speculation.

Question. So you have no knowledge as to how the NSC did their background investigation process?

Answer. I have learned since June 19th how they do it. I could address that, but not prior.

Question. Have you learned since June 19th how they previously did their background investigations?

Mr. RYAN. Let the record reflect that the witness is nodding yes.

EXAMINATION BY MS. COMSTOCK:

Question. Could you explain what you have learned about how the NSC conducted their background investigation?

Mr. RYAN. Is that something that can be in the public record?

The WITNESS. I think the procedures can.

EXAMINATION BY MS. COMSTOCK:

Question. I will say for the record, I think it has already been made public that Mr. Marceca took NSC files home with him, that he was reviewing NSC files, and they were in his computer or basement or closet, or wherever he kept them. Aside from whether or not they were in the public, those documents were turned over by Mr. Marceca and actually turned over simultaneously to the press also.

Mr. RYAN. Do you know anything about that?

The WITNESS. No, except what I read in the paper.

EXAMINATION BY MS. COMSTOCK:

Question. Have you learned since June 19, 1996, how the NSC conducted their background investigation process, what their process was?

Answer. They actually had two processes. Most of the NSC are detailed, and a big majority of them are military and their background investigations are completed by the Defense Investigative Service before they are even assigned to the NSC.

NSC would receive a copy of that background investigation, provide a copy of that investigation to White House Security so they could adjudicate it for a White House pass. If it is a FBI background investigation, NSC would send the request to the FBI, directly to the FBI, and the FBI would respond by providing the NSC a copy of the investigation and White House Security with two copies of the investigation, one for their file and for Secret Service issuance of a pass.

Question. To your knowledge, do you know how the NSC obtained previous reports of holdover NSC staffers, people who were held over from the Bush administration to the Clinton administration, or have you learned?

Answer. No.

Question. So you don't know if that process was the same as the process you have described in general in doing reports or if there was any difference—

Mr. RYAN. What does the NSC have to do with the Travel Office?

Ms. COMSTOCK. Mr. Marceca was obtaining NSC files as part of Filegate.

Mr. RYAN. Why don't you ask about files that would pertain to the Travel Office then, because the NSC files have nothing to do with the Travel Office.

Ms. COMSTOCK. They have everything to do with Filegate and how files were obtained by Mr. Marceca, to the extent that the files which he was obtaining of former Reagan and Bush officials, whether it was Billy Dale or Brent Scowcroft.

Mr. RYAN. Ask him that.

Ms. COMSTOCK. That is what I am asking him about, the process.

Mr. RYAN. No. You are asking him about the NSC and about the process. Why don't you ask him what he knows about Filegate, then you will have a premise perhaps to go into more detailed questions about procedures. There will be a linkage back. That worked a minute ago—

Ms. COMSTOCK. Regardless of whether or not Mr. Easley has any knowledge of Mr. Marceca obtaining files to the extent he has knowledge about, which I will ask him after we understand the process. If you want to go backwards—

EXAMINATION BY MS. COMSTOCK:

Question. Do you have any knowledge of Mr. Marceca obtaining NSC files?

Answer. No.

Question. Do you know how NSC files would go through the Office of Personnel Security for previous reports, how those files—do you have any knowledge if those files would have gotten through?

Answer. I thought I answered that.

Mr. RYAN. He already answered no.

EXAMINATION BY MS. COMSTOCK:

Question. Have you had discussions with anyone since you have taken over this office about the process of why Mr. Marceca was obtaining NSC files and your view on whether or not someone should be doing that?

Answer. No.

Question. In your office, the people that have worked for you, this one gentleman who works under you—

Answer. Since 1993, yes.

Question. Does he have a security clearance?

Answer. Yes.

Question. He has always had one since he has worked with you from 1993 forwards?

Answer. Absolutely.

Question. Have you ever had interns without clearances working in your office?

Answer. I have never had an intern working in my office.

Question. Did you have any knowledge of interns working in Craig Livingstone's office from 1993 forward?

Answer. Yes.

Question. Did you ever talk to Craig Livingstone about the fact that he had interns in his office?

Answer. No.

Question. Did you ever raise security concerns with anybody in the Counsel's Office or anybody in the White House about the fact that Craig Livingstone had interns in that office?

Answer. No.

Mr. RYAN. Would interns in that office have had a White House pass?

The WITNESS. An intern White House pass.

Mr. RYAN. So there would have been a background investigation done of any intern?

The WITNESS. No.

EXAMINATION BY MS. COMSTOCK:

Question. To your knowledge, did any of the interns have background investigations done on them?

Answer. No.

Question. Do you not have any knowledge or, to your knowledge, they did not have background investigations?

Answer. They did not.

Question. Did you ever do any security clearances on any of the interns in the Office of Personnel Security?

Answer. No.

Question. To your knowledge, did any of those interns have any security clearances?

Answer. No.

Mr. RYAN. Do you know whether they did or didn't?

The WITNESS. They did not have security clearances.

EXAMINATION BY MS. COMSTOCK:

Question. You know for a fact that they did not have security clearances; is that correct?

Answer. That is correct.

Question. And you know for a fact that they did not have background investigations; is that correct?

Answer. That is correct.

Mr. RYAN. When did you find that out?

The WITNESS. I have always known the interns did not have background investigations.

EXAMINATION BY MS. COMSTOCK:

Question. Thank you.

Since you have taken over this office, have you discussed the issue of having interns without security clearances in that office with anybody in the White House?

Answer. The White House Personnel Office, Craig Livingstone's office?

Question. Yes.

Answer. That is history. I have no reason to discuss that, no.

Question. Do you currently have any intern—

Answer. I answered no.

Question. You do not intend then to have interns working in that office?

Answer. OA is not authorized interns. Even if I wanted to, I couldn't have them.

Ms. COMSTOCK. I am showing the witness Exhibit 3.

This is a—

Mr. RYAN. Show it to me first.

[Easley Deposition Exhibit No. 3 was marked for identification.]

Ms. COMSTOCK. A Montgomery County Maryland Department of Police report regarding a simple assault complaint against Craig Livingstone, and this is the complaint that was reported last month about Mr. Livingstone threatening to—the threat is, "if you don't keep that 'expletive deleted' dog quiet, I am going to beat your face in."

Mr. Livingstone acknowledged that he did say that to his neighbor but that he knew he was wrong. Did you ever learn of this report—

Mr. RYAN. Slow down. You are going too fast.

The witness has looked at Exhibit 3.

EXAMINATION BY MS. COMSTOCK:

Question. Have you seen this report before?

Answer. No, I have not.

Question. When did you first become aware that Craig Livingstone had threatened his neighbor in this fashion?

Mr. RYAN. Are you aware of it prior to this meeting?

The WITNESS. I think I read about the incident in the newspaper but never thought about it.

EXAMINATION BY MS. COMSTOCK:

Question. You never thought about it?

Answer. No.

Question. When this was in the newspaper, which was last month—

Mr. RYAN. Do you know the date?

EXAMINATION BY MS. COMSTOCK:

Question. I believe it was—approximately June 21st or so, or the week on or about June 21st, it was in the newspaper. It may have been in the paper by June 20th.

Mr. RYAN. Was Mr. Livingstone employed at the White House on that date, do you remember?

The WITNESS. I think he was on administrative leave with pay at that time.

EXAMINATION BY MS. COMSTOCK:

Question. Did you talk to anybody at the White House about this incident when it was reported in the paper?

Answer. No.

Question. You had no conversations with anybody about anything, gee, did anyone know about this, or anything like that?

Answer. No.

Question. So at the time you had approved Mr. Livingstone's clearance in 1995, apparently you did not know about this incident or anything like this in Mr. Livingstone's background?

Answer. When did the incident occur?

Question. The incident occurred in November of 1993.

Answer. No.

Question. When Mr. Cerf, to return to that briefly, can you describe a conversation you had with Mr. Cerf when he said—what that conversation was about in the context of whether or not you would review Mr. Livingstone's file?

Mr. RYAN. Has the White House claimed privilege?

I am a lawyer. Obviously, I am not the White House's lawyer—

Ms. COMSTOCK. We are not aware of any privileges being raised on this.

Mr. RYAN. I am asking lawyer-to-lawyer, whether the White House should be asked about—what is the more generalized procedure?

Ms. COMSTOCK. We have not recognized any privilege in this matter.

Mr. RYAN. Because you are waiving their privilege if you answer this. I mean, as a lawyer.

Ms. COMSTOCK. I know in terms of the documents, the White House has said anything related to the Filegate matter they would turn over immediately, anything related to these things, Craig Livingstone obviously is a key player. If you want to call the White House, we can take a break here.

EXAMINATION BY MS. COMSTOCK:

Question. I want to go directly into all the conversations you had with Chris Cerf and any knowledge you have of who he talked to, anybody else you may have talked to in the Counsel's Office about the Livingstone security clearance in general and why Mr. Easley did not review the file in the process of him not reviewing the file.

Mr. RYAN. I have no objection to him answering the question but I don't know if they might—

[Pause.]

Mr. RYAN. On the record. I am going to permit him to answer it because it doesn't strike me that this is—I don't know if there is a privilege issue here, so I will let him go. There is no White House lawyer here.

The WITNESS. I think the best way for me to answer this is the fact that the CIA had already reviewed his file and granted much higher clearances than top secret for him. The fact that White House Counsel had his file and Secret Service had reviewed his file and granted him a permanent White House pass, I didn't really push the issue of reviewing his file. I accepted their professional adjudication, and in passing with Chris—

EXAMINATION BY MS. COMSTOCK:

Question. Could you describe that conversation with Chris?

Answer. In passing, I just mentioned that I was going to go ahead and grant him the top secret clearance. Chris said fine, go ahead.

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dent

Mr. RYAN. Who initiated the conversation? Was it telephonic or in person?

The WITNESS. It was, I believe, in person, just a chance meeting in a hallway or a office.

EXAMINATION BY MS. COMSTOCK:

Question. Did you ask Chris Cerf for Mr. Livingstone's file?

Answer. I don't know that I directly asked him for it. I don't think so. If I had or if I would have insisted on seeing it, he would have showed it to me.

Question. You have testified that you did not, in all other cases, you did review their files?

Answer. That is correct.

Question. Did you ask somebody at any time for Mr. Livingstone's file?

Answer. I did not directly ask anybody to review his file, no.

Question. Why didn't you ask anyone for his file?

Answer. Based upon my knowledge that professional adjudicators at CIA had reviewed his file in May of 1993 and granted appropriate SCI accesses to him, based upon my knowledge that White House Counsel had reviewed his file and approved him for a White House pass, and based upon the Secret Service reviewing of his file and going ahead and issuing that White House pass.

Question. All these other people who you did review their files, did any of those people have the same process that they had gone through, that the White House and Secret Service had cleared them.

Are you saying that Craig was the only person who had been cleared by all these people?

Answer. That is not what I am saying. I didn't finish. Based upon the fact that we were peers working very closely together, I didn't know that I really wanted to look into that personnel file, based on the fact that it had been previously adjudicated by professional adjudicators.

Question. Did you review files of other people in the Counsel's Office?

Answer. Yes.

Question. Did you review files of other people in the Office of Personnel Security?

Answer. Yes.

Question. Did you review files of people in the Chief of Staff's office?

Answer. Yes.

Question. Did you review files of your supervisor, Mary Beck?

Answer. Yes.

Question. Did you review files of her supervisors?

Answer. Yes.

Question. Can you describe anything else about this conversation you had with Mr. Cerf about the extent of it?

Answer. We may have discussed other things. I don't remember.

Question. To your knowledge, who had physical possession of Craig Livingstone's background investigation?

Mr. RYAN. What has that got to do with the Travel Office? I mean honestly; tie it up.

Tell me what the connective logic is to the Travel Office.

EXAMINATION BY MS. COMSTOCK

Question. Did Craig Livingstone have possession of his own files, to your knowledge?

Answer. I don't know. I don't think so.

Question. Do you know who had the file?

Answer. At that time, Chris Cerf had the file.

Question. Did Chris Cerf tell you about any problems he knew of in Mr. Livingstone's background?

Answer. No.

Mr. RYAN. If you had answered yes, that would have been the end of that. We are really far afield.

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware that Secret Service had raised concerns about Mr. Livingstone to the White House Counsel's Office?

Answer. No.

Question. Were you aware of the FBI raising any concerns about Craig Livingstone's background with anybody in the Counsel's Office?

Answer. No.

Question. When you talked to Mr. Cerf, did you ask him if anybody else had ever raised concerns about Craig Livingstone?

Answer. No.

Question. Have you ever had any discussion with Craig Livingstone about his legal bills?

Mr. RYAN. Objection. It has literally nothing to do with the Travel Office. I direct you not to answer it. I can't imagine that you could link that to the Travel Office. If you want to ask if the individuals involved in the Travel Office issue make contributions and whether he knows about that, let's do it that way, so there is some semblance of linkage to the Travel Office.

EXAMINATION BY MS. COMSTOCK:

Question. Are you aware that Mr. Livingstone raised the issue of his legal bills with Secret Service agent, Arnie Cole?

Mr. RYAN. I object. You heard about it in the Senate hearing. How does that relate to the Travel Office? Connect it up for me.

Ms. COMSTOCK. This investigation, as the Chairman defined clearly this morning and you acknowledged, involves the Filegate matter. Craig Livingstone is a key player in that and it has become very apparent that Craig Livingstone had problems in his background.

Mr. RYAN. I don't agree with that. You have been making statements like that all day. Let's stick to the Travel Office.

Craig Livingstone's attorneys fees, unless—there is a way, by the way, I am trying to hint as to how to link it up. If you want to ask does this witness know if Harry Thomason gave money to Craig Livingstone's—

Ms. COMSTOCK. I am asking if Craig Livingstone said anything to him as he said to Arnie Cole that, gosh, I have all these legal bills.

Mr. RYAN. Do you know if he said that to Arnie Cole?
The WITNESS. I have no idea.

EXAMINATION BY MS. COMSTOCK:

Question. Did he complain to you about his legal bills and legal problems?

Mr. RYAN. Objection.

Ms. COMSTOCK. Are you instructing the witness not to answer?

Mr. RYAN. If you really think this is important to press, then go back and get some connective logic to it about the man's attorneys' fees, connect it to the Travel Office. I told you how to do that.

Ms. COMSTOCK. It is connected to the Travel Office, and all day you have chosen to define that very narrowly, as the White House has done continually throughout this.

Mr. RYAN. Read your report. It is report 104-472. Read House Resolution 369. Read the letter that I received and connect it up for me. That is all I am asking.

Ms. COMSTOCK. This matter involves—Craig Livingstone is a clearly central figure in this matter, the obtaining of the files and his background and how he obtained it is central to that and he has made statements to other witnesses that have been publicly stated, and I am asking this witness if he has ever had any statements made to him about his legal bills.

Mr. RYAN. And I am telling you that that has nothing to do with the Travel Office.

Answer the question, the central question. There is a central question pending and then we can move off of this so I don't have to object on pertinency grounds.

Did he ever talk to you about his attorney fees, Craig Livingstone?

The WITNESS. He made a statement once he had some big attorney fees, and that was it. It wasn't my concern.

EXAMINATION BY MS. COMSTOCK:

Question. Was that in the context of discussing anything related to the Filegate matter or the Travel Office matter?

Answer. I don't think so.

Question. Thank you.

Were you involved in any discussions of whether or not Craig Livingstone should stay on in the Office of Personnel Security throughout the month of June 1996?

Answer. No.

Question. When were you first contacted to take over this new position that you were appointed to on June 19, 1996?

Answer. The week before. I believe it was a Thursday when I had meetings with my supervisors.

Question. And who were those people?

Answer. The initial meeting was with Frank Reeder, who was the Director of the Office of Administration.

Question. Was anyone else there?

Answer. Just Frank and I.

Question. What did you discuss with Mr. Reeder?

Mr. RYAN. What has that got to do with the Travel Office? Why don't you ask—did you talk about the Travel Office in that meeting?

The WITNESS. No.

EXAMINATION BY MS. COMSTOCK:

Question. Did you talk about the fact that Mr. Livingstone may be leaving the White House?

Answer. No.

Question. Did you talk about anything related to the problems connected with Mr. Livingstone and the files and the fact that there might be a new position opening in the White House?

Answer. No.

Question. What did you discuss with Mr. Reeder regarding the position?

Answer. Mr. Reeder indicated to me that with the problems that were surfacing and with the information surfacing in the newspaper—

Question. What were those problems?

Answer. With White House security and Craig Livingstone.

Question. In the Filegate matter?

Answer. He didn't specifically—let me answer the question, please. He indicated those problems that were coming up that he expected or suspected that me and my office might come under a close scrutiny. We didn't mention any specific problems.

We talked in general only, and he indicated that he was going to have Nelson Cunningham who is the General Counsel of the Office of Administration talk to me about my procedures and what I was doing to make sure that we had everything covered.

Question. Did you have such a discussion with Nelson Cunningham?

Answer. Yes, I did.

Question. What did you discuss—

Mr. RYAN. This has nothing to do with the Travel Office. What is the fishing expedition that we are on here?

Ms. COMSTOCK. There have been significant problems in this White House with the obtaining of 400 files—

Mr. RYAN. Ask about the 400 files then. Billy Dale's files and the 400.

Ms. COMSTOCK. One concern this committee has is that this not happen again.

Mr. RYAN. That has nothing to do with the Travel Office, though.

Ms. COMSTOCK. It does. Part of what we are looking at is how these events happened, why they happened and what procedures and practices were in place that allowed such egregious violations of privacy, to use the words of the FBI Director, how those things occurred and whether or not Mr. Easley—

Mr. RYAN. Whether he had jurisdiction generally about that is not related to the Travel Office.

Ms. COMSTOCK. I don't understand—you are trying to limit this in a way that you have already represented to the Chairman that you did not intend to limit it. This is related to the Filegate matter.

Mr. RYAN. Ask about it.

EXAMINATION BY MS. COMSTOCK:

Question. Is it your opinion, then, that you have come into your new position and had nothing to do with the Filegate matter?
Mr. RYAN. That is not an appropriate question.

EXAMINATION BY MS. COMSTOCK:

Question. Do you have anything to do with the Filegate matter in your new position, events that occurred as a result of the Filegate matter that have anything to do with your obtaining your new position?

Mr. RYAN. Do not speculate.

Has any individual told you that you are being given——

Ms. COMSTOCK. I am asking in his opinion.

The WITNESS. I will testify to facts, but I am not going to render opinions.

EXAMINATION BY MS. COMSTOCK:

Question. I am asking your opinion.

Mr. GOLDBERG. You are badgering the witness. This is not an appointee of the White House; he is a career employee. I think the tone of this deposition is highly inappropriate for this witness.

Ms. COMSTOCK. We have had continued objections all day to the scope of this investigation.

Mr. RYAN. I have objected, but I have let you keep going——

Mr. GOLDBERG. Turn the tone down and get back to civility and try to get the information you need.

EXAMINATION BY MS. COMSTOCK:

Question. Who contacted you about your new position on June 19, 1996, to inform you that you would be getting this new position?

Answer. It wasn't June the 19th; it was like the Friday or Thursday before the initial conversation. And in the initial conversation with Frank Reeder there was no indication I was getting a new job at that time. They didn't reveal it to me.

Question. When did they reveal to you that you were going to get a new job?

Answer. At 6 o'clock that evening I met with Jodie Torkelson.

Question. Six o'clock that Thursday the week or so before?

Answer. Yes. She met with me and indicated that it was being considered and wanted to know if I would be willing to accept the position if it was offered to me.

Mr. RYAN. Let the record reflect that it is 12:15, approximately, and my clients's beeper has been buzzed by the Independent Counsel's Office. I take it that they want access to something at the White House.

Ms. COMSTOCK. If you want to take a break to call them, that will be fine.

Mr. RYAN. Let me say my request to the Independent Counsel is that we try and finish this.

Are we getting close to being finished?

Ms. COMSTOCK. Yes.

Mr. RYAN. I would rather not break——

[Recess.]

Ms. COMSTOCK. Back on the record.

EXAMINATION BY MS. COMSTOCK:

Question. You were discussing a meeting that you had with Jodie Torkelson the Thursday before you were appointed to your new position.

Answer. That is correct.

Question. And she asked you to consider this new position on that Thursday?

Answer. That is correct.

Question. I believe that would have been June 13th?

Answer. It was that Thursday before the 19th. I would have to see a calendar.

Question. Did she tell you who she had talked to about this?

Answer. No, she did not.

Question. Did she mention anything about what was going to happen to Craig Livingstone in that position?

Answer. No.

Question. Following that discussion with Ms. Torkelson, when was the next contact you had about obtaining this new position?

Answer. I don't know that we discussed anything on Friday or the following Monday. I think the following Monday, they were planning to make the announcement on Monday and didn't do it until Tuesday. We may have had a conversation over the phone that it was going to take place, but nothing else.

Question. At that time was it your understanding that Mr. Livingstone was still in charge of the office?

Answer. They didn't hire me as a White House Security Officer. They placed the functions of the White House Security Office under my office. Mr. Livingstone at the time was on administrative leave with pay, and I believe the announcement was made that if he returned they would place him in another position.

Question. He went on administrative leave as of June 27, 1996. I think you are describing discussions that occurred that prior week. When you had these discussions with Ms. Torkelson, were you aware if Mr. Livingstone was still in charge of the Office of Personnel Security?

Answer. When I had these discussions with Ms. Torkelson, Craig Livingstone had been placed on administrative leave with pay, according to my recollection.

Question. And after these discussions with Ms. Torkelson who was the—what was the next time you heard about this announcement? You said it was going to be announced on Monday?

Answer. They were shooting for Monday and ended up doing it Tuesday.

Question. Who was shooting for Monday?

Answer. I understand it was going to be a joint announcement with Leon Panetta, the Chief of Staff, and Jack Quinn, the Counsel.

Question. Had you talked to Mr. Quinn or Mr. Panetta at any time, at any time in this process?

Answer. No.

Question. Was there anyone other than Frank Reeder, Nelson Cunningham or Jodie Torkelson that you spoke with about this new position?

Answer. No.

Can I go off the record—of course, I talked to my wife, okay. She is my best friend and partner. I talk to her about everything.

Ms. COMSTOCK. I will make this Exhibit 4, which is the statement of Leon Panetta of June 19, 1996, announcing the changes in the staff.

[Easley Deposition Exhibit No. 4 was marked for identification.]

EXAMINATION BY MS. COMSTOCK:

Question. Have you seen this before?

Answer. Yes.

Question. Did anybody discuss with you the—this is CGE 47992 through 997. Did anybody discuss with you in the course of this process, this memo or the new structure?

Answer. No, but I would like to change something. There is obviously a resume, semi-resume, and during the Friday and the Monday with Frank Reeder and Nelson Cunningham both, we discussed this and submitting a little bit of information, obviously.

Question. So this is CGE 47995, which is part of Exhibit 4, the page with your resume in here?

Answer. Yes.

Question. So you had your resume to Mr. Reeder?

Answer. I gave it to Nelson Cunningham.

Question. During this time frame prior to June 19th?

Answer. Yes.

Question. Did you have any input into this new structure of the office prior to this announcement on June 19th?

Answer. No. That was the existing structure and the comment may have been made to me that they were going to leave it the way it is, it wasn't going to change, but we didn't go into any discussions.

Question. They were going to put Craig's operations into your office and keep the same structure?

Answer. That is correct.

Mr. RYAN. I think what he is saying is that the diagram that you are looking at, CGE 47996, the diagram remained correct despite the change, just so the record is clear.

EXAMINATION BY MS. COMSTOCK:

Question. Directing your attention to CGE 47994, the second paragraph on that page, it is part of Mr. Quinn's statement, in the middle it says: "As always, suitability decisions will remain the responsibility of Counsel to the President." Can you describe how that, the suitability decisions will operate in the current structure? Will there be any changes or—

Answer. Yes, there will be changes.

Question. What were the changes?

Answer. All background investigations now come to me. I do the initial adjudication. If there are issues that need to be resolved, I will deal with the Counsel's Office of the agency affected, to include White House Counsel, if the White House is affected.

Question. So if it was OA, you would deal with Mr. Cunningham?

Answer. That is correct.

Question. And if it was White House, you would deal with somebody in the White House Counsel's Office?

Answer. An associate, yes.

Question. If it was NSC, you would deal with NSC's Counsel?

Answer. That is correct.

Question. If it were the Vice President, you would deal with the Vice President's Counsel?

Answer. That is correct.

Question. Would the Counsel's Office, the respective Counsel's Office then have the final say on suitability?

Mr. RYAN. Is the question today who has the final—

Ms. COMSTOCK. Yes.

Mr. RYAN. Do you render decisions on adjudications?

The WITNESS. On issues cases, when I share the information with the Counsel's Office, we discuss the issues, I will make recommendations, and the agency itself has final say-so, obviously, in any case. It is an agency responsibility.

EXAMINATION BY MS. COMSTOCK:

Question. If there were someone there that you felt was a threat or a danger, is there anyone—but the Counsel's Office disagreed, is there anyone you can raise that issue with?

Answer. If there is a threat or a danger in a case, I would immediately deal with the Secret Service and bypass the Counsel's Office.

Question. And if there were someone that you strongly felt was unsuitable for a position because of national security concerns or documents, something like that, is there someone aside from the respective counsels that you can raise that issue with?

Mr. RYAN. Has this ever occurred?

EXAMINATION BY MS. COMSTOCK:

Question. I am asking who you would go to if such a concern were raised. Is there a process by which if you have a concern and it is not acknowledged or accepted by the Counsel's Office, is there a process that exists by which you would have somewhere else to go besides the Counsel's Office?

Answer. We could buck it right up to the agency heads.

Question. Up to the Chief of Staff, in the case of the White House?

Answer. I think it would be Jack Quinn, the Counsel. If he felt that it needed, I am sure we would bump it all the way up to Mr. Panetta, yes.

Mr. RYAN. Has that ever occurred?

The WITNESS. No.

Mr. RYAN. Let me ask; I know that you started numbering at one. I gave my original copy of the letter that we received. Will that be an exhibit?

Ms. COMSTOCK. I will go ahead and make that an exhibit at the end.

Exhibit 2, I guess we were going to hold in abeyance here at this time because of the security clearance issue.

Ms. COMSTOCK. I have a few more documents.
This is a February 17, 1993 memo to all White House staff from Vincent Foster and William Kennedy, CGE 48210. That will be Exhibit 5.

[Easley Deposition Exhibit No. 5 was marked for identification.]

EXAMINATION BY MS. COMSTOCK:

Question. Have you ever seen this memo before?

Mr. RYAN. Let him read it.

The WITNESS. I am aware of the memorandum, but I don't think I have seen it before.

EXAMINATION BY MS. COMSTOCK:

Question. Do you know when you became aware of it?

Answer. No. I am just aware that it was circulated. I had not seen the memorandum. I had nothing to do with its preparation.

Question. We had earlier discussed that you raised the issue of the people not getting permanent passes because of Mr. Kennedy and Mr. Livingstone.

Do you recall what they told you about why there were delays in issuing permanent passes?

Answer. Just that they were working on it. They didn't go into anything. I had no authority in that area so—

Question. How did it come about that you had raised the issue with them?

Answer. I had some people who needed permanent passes and investigations were being held up, not getting down to me so I could get the permanent passes issued to the people. In that context, certainly I was concerned.

Question. This is CGE 47888. This is a June 10, 1993 memo which is an assignment from Bill Kennedy and Craig Livingstone. This involves an assignment to look into the issue of drug use.

I realize we are going to be readdressing this in a separate deposition or in a separate context, but I did want to see if you had ever seen this document or if you know anything about who was assigned this—do you know anything about an assignment—did Craig Livingstone ever ask you anything about the legal or regulatory rights, or whatever, that is discussed here in terms of issues related to drug use? Do you want to answer, yes or no, for now?

Answer. I have never seen the document.

Mr. RYAN. I want to say something.

You are really pushing again into the drug use issue when we already had a ruling from the Chairman. I have let him answer two questions—

Ms. COMSTOCK. I am not going to make this part of the record.

Mr. RYAN. You have a document that says, assignment from Bill Kennedy and Craig Livingston, question regarding law or regulations on drug use. If this is a little game you are playing with me, I am just telling you that the Chairman has already ruled on this and I will state for the record now that there isn't going to be a deposition under oath on drug use, because this committee's authority to take depositions under oath is tied to the Travel Office. He will come up and give an interview.

Ms. COMSTOCK. That is not what you stated to the Chairman earlier today. There was no clarification—

Mr. RYAN. Do not interrupt me. Just do some basic cordiality among counsel.

I am making it as crystal clear as I can right now that you have the authority to take depositions under oath under limited circumstances. It is in the Travel Office issue.

He will come up and give you an interview and there can be a reporter present and there will be a transcript, but it is not going to be under oath. That is what I did with Senator Hatch, and it was perfectly acceptable to the Republican Majority staff in the Senate.

It seems to me then the question is are we going to go down the road any further on drug use today, in which case, I think we have a problem.

Ms. COMSTOCK. Again, that was not the representation that was made to the Chairman earlier today. There was never any clarification—

Mr. RYAN. I said, I would—

Ms. COMSTOCK. For the record, the Chairman is not present and counsel for the witness has now further clarified his representation that he would not be coming up for a deposition under oath, but you think that will be a determination for the Chairman in consultation with the Ranking Minority Member because I think we clearly have a disagreement on the scope of this investigation which has been ongoing throughout the day.

Mr. RYAN. I do think as a point of personal privilege, I did not mislead the Chairman. I never said that he would come up here and give a deposition under oath. I understand that different people hear different things, but it has never been my intention in any way, directly or indirectly, to mislead the Chairman.

I am glad we have clarified it for the record so he will know my position on that issue.

Ms. COMSTOCK. This is an August 11, 1994 letter to the President from Senator DeConcini, that I would like to make Exhibit 6. [Easley Deposition Exhibit No. 6 was marked for identification.]

EXAMINATION BY MS. COMSTOCK:

Question. Attached is an August 22, 1994 letter back to Senator DeConcini from Lloyd Cutler, with attached references from Senator's DeConcini's Committee on Intelligence where they addressed the issue of how the White House Office of Personnel Security was being run.

Do you have any knowledge of Senator DeConcini looking into concerns that he had about how the Office of Personnel Security was being run in 1994?

Answer. I know that Jim Wolf, who was the Security Officer for the Intelligence Committee came down to the White House and looked at procedures, yes.

Question. Could you describe the discussions that you had with Mr. Wolf?

Answer. One meeting with numerous other people. —

Question. Who were the other people present?

Mr. RYAN. How does this relate to the Travel Office?

Ms. COMSTOCK. It relates to the Filegate matter and the operation of Craig Livingstone's office.

EXAMINATION BY MS. COMSTOCK:

Question. I believe you have——

Mr. RYAN. I am talking to—the record can't reflect that I have turned to him to consider with him the issue you have just put before us, and you have interrupted me again. Please, let me consult with my witness.

The WITNESS. The meeting was not about the file issue.

EXAMINATION BY MS. COMSTOCK:

Question. Did you meet with Mr. Wolf on the general operations of the Office of Security procedures and White House passes at the office in 1994?

Answer. In a meeting with Jim Wolf, and numerous other people were sitting, and we responded to questions that Jim asked about the procedures, one meeting lasting about, probably, 50 minutes.

Question. So you only attended one such meeting?

Answer. That is correct.

Question. Who else was present in that meeting? Was Craig Livingstone present?

Answer. Craig Livingstone was present; David Watkins was present; Patsy Thomasson was present; Chris Cerf, at the time the General Counsel of OA, at that time, was present. Jim Wolf, of course, was present. And I believe a gentleman by the name of Paul Toback, T-O-B-A-C-K was present.

Mr. RYAN. Is it possible others were present that you can't recall?

The WITNESS. Of course.

EXAMINATION BY MS. COMSTOCK:

Question. Did you ever discuss the White House passes or security matters with Patsy Thomasson?

Answer. Not on a one-on-one, no. You are talking White House again. I had nothing to do with White House at that time.

Question. Do you handle the safes in the White House, is that under——

Mr. RYAN. When? Then or now?

EXAMINATION BY MS. COMSTOCK:

Question. In 1993?

Answer. I made a decision in about 1989 when the Secret Service stopped changing combinations to safes, that we didn't need a contractor to come in and change White House safe combinations. I started at that time changing the combinations to the White House safes.

Question. Could you describe what your duties were in that regard?

Answer. To change combinations as needed on White House safes.

Question. Were you aware of Travel Office documents being in the Military Office safe in 1993?

Answer. No.

Question. Did anyone ever ask you about gaining access to a Military Office safe for Travel Office documents?

Answer. I had nothing to do with military safes.

Question. On the night of Vince Foster's death, July 20, 1993, it has been reported in news reports that individuals were trying to obtain access to a safe in Mr. Foster's office.

Mr. RYAN. I object.

Go ahead.

We are so far afield already, just go ahead. I am sorry.

The WITNESS. What is the question?

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware——

Ms. COMSTOCK. Would you read the question?

[Reporter read back as requested.]

Mr. RYAN. Would you like to make a representation on the record of pertinency of that to the Travel Office?

Ms. COMSTOCK. Yes. Mr. Foster was a key person involved in the Travel Office.

The whereabouts of documents in Mr. Foster's office, including Travel Office documents, and documents related to Harry Thomason, and documents related to ICAP and documents that have all kinds of things having to do with the Travel Office and where there was travel were throughout May of 1993 to the present, is a central issue to this investigation.

And there have been reports that, newspaper reports that someone—that individuals were trying to get access to his safe sometime in the day or two following Mr. Foster's death, and I am asking the witness if he has knowledge of anyone trying to get access to safes in Mr. Foster's office?

Mr. RYAN. Did you read those press accounts?

The WITNESS. Some of them, yes.

EXAMINATION BY MS. COMSTOCK:

Question. Do you have any knowledge of anyone trying to gain access to safes that were known to be safes where Mr. Foster kept documents?

Answer. I am going to answer that with this: Mr. Foster didn't have a safe in his office.

Question. Did Mr. Foster have a safe that he used in the Counsel's Office?

Answer. I don't know.

Question. Mr. Nussbaum has a safe in his office; is that correct?

Mr. RYAN. When Mr. Nussbaum was part of the White House?

The WITNESS. Yes, he did.

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware of Mr. Foster using that safe?

Answer. No.

Question. Were you aware in the days or two following Mr. Foster's death of anyone trying to get access to Mr. Nussbaum's safe——

Mr. GOLDBERG. Other than Mr. Nussbaum?

EXAMINATION BY MS. COMSTOCK:

Question. Somebody asking anyone in your office to get access to a safe in Mr. Nussbaum's office?

Answer. Nobody asked me.

Question. Do you have any knowledge at any time of any role that Mr. Marceca played in accessing safes in the White House?

Mr. RYAN. Wait. That is such a broad question. Put a time on it. He had access to a safe in his own office.

EXAMINATION BY MS. COMSTOCK:

Question. Let me clarify. Who besides yourself was involved with handling safes in the Counsel's Office?

Answer. Well, not at that time, nobody.

Question. Were you the only individual then who could—if I am Mr. Nussbaum and I lost my key, who would I go to in—

Mr. RYAN. I object to the form. These are not keyed safes, I assume. There is no such thing as a keyed safe in the White House, I assume.

The WITNESS. Yes.

EXAMINATION BY MS. COMSTOCK:

Question. If I do not know how to open my safe, which Mr. Nussbaum testified to, that he didn't know how to get access to his safe—

Mr. RYAN. In other words, if the person who has normal access to the safe and knows the combination, if all of them developed amnesia and do not have the combination, is Chuck Easley in the only person in the White House who could open the safe if access-holders were unavailable?

The WITNESS. I would like to clarify that. I don't think Mr. Nussbaum ever tried to open a combination. About every time he wanted in, I had to go open it for him. He claimed he did not know it.

The record of the combination is kept in a sealed envelope and the names of the people authorized to have access to that combination are on the envelope, and if their name is not on that envelope, I don't provide a combination.

Question. And you keep that sealed envelope?

Answer. In a locked safe.

Question. Are you aware in the days following Mr. Foster's death of anyone who was not on that envelope trying to seek access to Mr. Nussbaum safe?

Answer. No.

Question. Were you aware of Patsy Thomasson seeking access to any safes in the Counsel's Office in the day or two following Mr. Foster's death?

Answer. Patsy Thomasson has never asked me for a combination to a safe anywhere in the complex.

Question. Did Mr. Watkins ever ask you to get access to any safe in the White House Counsel's Office in those days or two following Mr. Foster's deaths?

Answer. Mr. Watkins never asked me for a combination to a safe anywhere in the complex.

Question. So as to these press accounts that people were trying to gain access to a safe that may have had documents that were Mr. Foster's, do you have any knowledge as to what those accounts were referring to?

Answer. I read the same newspaper article you did. Again, I state there was no safe in Mr. Foster's office and nobody asked me for a combination.

Question. I understand that there was no safe in Mr. Foster's office, but did you have any knowledge of what those articles were referring to?

Mr. RYAN. Do you have any reason to believe that those articles are correct?

Answer. No.

EXAMINATION BY MS. COMSTOCK:

Question. Who is the person presently in the Counsel's Office that you will be reporting to, providing files to who will be determining suitability?

Mr. RYAN. Is there a single person or multiple persons?

The WITNESS. There are two people. But you are making a statement that I am going to provide a file to them, and that is wrong.

EXAMINATION BY MS. COMSTOCK:

Question. Who are the people you will report to in the Counsel's Office?

Answer. I will share information in a background investigation with Associate Counsel David Fein, who has been designated in writing by Mr. Quinn and Mr. Panetta, and another counsel working for him by the name of Trey Schroeder.

Question. Do you know when Mr. Cerf left the White House?

Answer. I know, but I couldn't nail down a date.

Question. Within the past several months?

Answer. Within the past year, I believe.

Question. Do you have any knowledge as to why Mr. Cerf left the White House?

Answer. No personal knowledge, no.

Ms. COMSTOCK. I want to make this August 11th letter Exhibit 6.

[Easley Deposition Exhibit No. 6 was previously marked.]

Ms. COMSTOCK. It is a letter to President Clinton from Senator DeConcini with an August 22nd letter to Senator DeConcini from Lloyd Cutler with attachments. We don't have Bates Stamps Numbers. It is 1994.

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware of Senator DeConcini making recommendations that Craig Livingstone be replaced in the Office of Personnel Security?

Answer. No.

Question. When did you first become aware that Senator DeConcini had made such a recommendation?

Answer. I didn't know until now he ever made such a recommendation.

Mr. RYAN. Do you know it now?

The WITNESS. She just told me. I have never seen that letter before. I never read it.

Mr. RYAN. Did you read it now?

The WITNESS. I glanced at it. I didn't pick out the point where he recommended Mr. Livingstone to be removed. I saw the recommendation to combine and have one central Security Office, but I didn't see the recommendation for Mr. Livingstone.

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware of recommendations at the time in 1994 following this meeting you had with Mr. Wolf that recommendations had been made to the White House?

Mr. RYAN. By whom?

Ms. COMSTOCK. By Senator DeConcini.

Mr. RYAN. He already answered that three times, and he said no. Is that correct?

The WITNESS. That is correct.

EXAMINATION BY MS. COMSTOCK:

Question. What was your understanding of why Mr. Wolf was meeting with you and the others in that one meeting you described?

Answer. The impression I had when I first went in was that the White House had asked them to come and take a look and make recommendations to improve the White House operations. That was the impression I had from the meeting. I didn't know it was at the direction of a Senator or anybody else.

Ms. COMSTOCK. I think I am about finished, if you have questions.

Mr. GOLDBERG. I have a few questions.

EXAMINATION BY MR. GOLDBERG:

Question. I want to clarify some of the things you have testified to.

About the safe of Mr. Foster, to your knowledge, was Mr. Foster authorized in any of those envelopes to have access to any safe, perhaps in the Counsel's Office or anywhere else?

Answer. Yes. He was authorized a combination to one of Mr. Nussbaum's. At that time it was more than one safe he was authorized access to.

Question. Do you recall following his death whether anybody asked you, who was not authorized to access those safes, asked you to help them get into or provide access to those safes?

Answer. No one asked and I did not provide.

Question. Absent coming to you or getting access through somebody who had official access and who knew the combination, is there any other way you could access those safes short of dynamite or diamond drills or—

Answer. There is surreptitious entries, but I think the time lag on that is like 20 hours.

Question. To your knowledge, could anyone who was not authorized to access those safes access those safes in the 2 week period following the death of Mr. Foster?

Answer. I don't believe so.

Question. Let me try to get into the security issue because I think it is a little confusing, and it is not confusing to me because I have held a security clearance.

When I came to this committee staff, I was hired by the committee. My background was looked at by the Chairman of the committee and he decided, for whatever reason, to hire me. When he determined that I separately needed to have access to classified information, then I was put in for a security clearance and at a certain point in time I was adjudicated by the agency to have access.

I think you stated that was not the process at the White House, to your knowledge, since the beginning of the Reagan administration?

Answer. From 1986, I could attest to when I first started working there, yes.

Mr. RYAN. Yes, there was no security clearance or, yes, there was a security clearance?

The WITNESS. There was no procedure for the White House to grant a formal security clearance.

EXAMINATION BY MR. GOLDBERG:

Question. But that didn't mean individuals who had access to classified information did not have determinations made about them by appropriate officials; you testified about the Secret Service—

Answer. The White House Security Officer would adjudicate a background investigation, and the adjudication process for a pass and for a security clearance were one and the same, so once you had been adjudicated favorably for a permanent pass, the statement was that people with permanent passes could have access through top secret, based on a need-to-know, and need-to-know is a key word.

Mr. RYAN. But you are saying in all three administrations that you have worked in the White House?

The WITNESS. That is correct.

EXAMINATION BY MR. GOLDBERG:

Question. Why was that changed in October of 1995, if you know?

Answer. Primarily the reason they didn't do it in the past is they felt the White House wasn't an agency and they didn't have authority to grant a security clearance. But they came out with a new Executive Order 12968 and this clearly identified the White House as being an agency that was allowed to grant security clearances.

Question. So the issue was a legal issue having to do with the definition in previous Executive orders of what is an agency and what is not an agency and not a security concern of who had access to top secret information?

Answer. That is correct.

Question. So it was almost an administrative fix when the White House started granting a large number of security clearances in 1995?

Answer. It was strictly an administrative procedure.

Question. But in some individuals' cases, for example, in the Livingstone case, they also had clearances from other agencies if they had a need to have access to particular types of information that would require perhaps higher levels of clearance?

Answer. That is correct.

Question. That could have been a Q clearance for DOE—

Answer. It was SCI access from CIA.

Question. In the CIA's case, they wouldn't have trusted the White House adjudication process to grant CIA special compartmental information clearance; is that correct?

Answer. That is correct.

Question. They would have reviewed a file of an individual that the White House held?

Answer. That is correct.

Question. To your knowledge, would they review other files which they might have on an individual?

Answer. Certainly they checked their own indices to see if they had an interest in an individual, yes.

Question. So it is your opinion when they granted the SCI clearance to Mr. Livingstone, that they didn't just rely on his White House folder but they also did whatever other process they typically do in adjudicating—

Answer. They have a process they follow, and I am sure they did that in Mr. Livingstone's case.

Question. Is your opinion that CIA is fairly particular about who they grant clearances to, they have a pretty cautious need-to-know and security process?

Answer. Extremely cautious.

Question. So if somebody has a SCI clearance from an agency, you would feel pretty confident that they had been looked at very closely by that agency?

Answer. That is correct.

Question. To your knowledge, if that agency had a problem with that individual, if they were a White House individual, would they raise that issue with the White House Counsel or would they just make a determination that that person was not going to get a clearance?

Answer. They would raise the issue with White House Counsel.

Question. Do you have any knowledge of whether in Mr. Livingstone's case they did that?

Answer. No, I do not.

Question. So to your knowledge, the CIA looked at his file, did their own determination, perhaps had conversations with counsel there, but determined that he was suitable for a special compartmented information clearance in May of 1993?

Answer. That is correct.

Question. So when you in this administrative process in October 1995, determined that it wasn't necessary to look into his file, was that because you had great confidence in the CIA's adjudication of his file?

Answer. I have been working with them for 10 years. I am very confident in their adjudication of files.

Question. Do you have any reason to believe that the CIA should not have granted that clearance?

Answer. I know of no reason.

Question. Do you know a Mr. Phil Larsen?

Answer. Yes, I do.

Question. What was his position in the White House, do you recall?

Answer. The most recent I know about, he was Director of Personnel and my immediate supervisor during the Bush administration.

Question. I believe that you testified before the Senate about a conversation you had with Mr. Larsen relevant to the Secret Service access list. Could you describe that conversation?

Mr. RYAN. The actual conversation or his testimony?

EXAMINATION BY MR. GOLDBERG:

Question. The actual conversation, if I described it correctly.

Answer. We were meeting in my office and Phil made a comment to me that when he came back to work at the White House after being gone for a number of years he came in as an appointment, and the uniformed officer at the guard post when he pulled him up on the screen on the computer program said you didn't need an appointment. You are still in our system as a permanent pass-holder. Then Phil expressed some other concerns, the Secret Service was leaving people in their system who should be inactive and not taking them out.

Mr. RYAN. Put on the record to the extent you recall it, I think his question asked what was the conversation, and use the words to the best that you recall them, including any curse words. Or you can say expletive deleted, but at an appropriate point.

The WITNESS. I think Phil may have said, don't they give a damn, or something like that, that people are still continuing to have access to the complex who no longer work here.

Mr. RYAN. And the "they" that you are referring to—

Ms. COMSTOCK. I object to the witness' attorney asking him questions.

Mr. RYAN. The "they" needs clarification. Who is the they?

Mr. GOLDBERG. I am asking the questions.

Mr. RYAN. I am trying to make sure that his testimony is as clear as possible.

Mr. RYAN. Who is the "they"?

The WITNESS. They had access. Numerous people who had departed the White House and were no longer employed there were still showing up on the Secret Service WAVES Center commuter and the printouts.

EXAMINATION BY MR. GOLDBERG:

Question. Do you have knowledge of Mr. Livingstone, or for that matter, anybody using the 476, that inappropriately obtained FBI files for any political purposes?

Answer. Absolutely not.

Question. Do you have any reason to believe that they were used for political purposes by anybody?

Answer. I found out about the files from reading the paper. I have absolutely no knowledge of what they were used for.
Mr. GOLDBERG. That is all I have.

EXAMINATION BY MS. COMSTOCK:

Question. Do you know what is in the 400 or so files? Do you know the content of those files?

Answer. Never saw them.

Question. So if anyone were to use that, do you have a basis of whether or not they have used it or not?

Answer. I never saw the files.

Question. So you have no basis to know whether anyone used information from those files; is that correct?

Answer. That is correct.

Question. Were you familiar with the access list process? Did you have anything to do with the Secret Service access list?

Answer. I think I testified earlier that was something White House security did, I had no involvement with, I had no knowledge of.

Question. Were you familiar with the codes on the list like active and inactive?

Answer. I am only familiar with the Secret Service printouts that I get.

Ms. COMSTOCK. I wanted to put into the record, make this Exhibit 7, it is a letter from Phil Larsen regarding the previous discussion we have had here with Minority.

[Easley Deposition Exhibit No. 7 was marked for identification.]

Ms. COMSTOCK. I am not going to ask any questions about the letter.

Mr. RYAN. Then why is it being put in the record?

EXAMINATION BY MS. COMSTOCK:

Question. I will go ahead and ask you some questions about it. Are you familiar—are you familiar with this letter?

Mr. RYAN. Let him read it. I ask that he be able to read it.

[Pause.]

Mr. RYAN. He is ready for questions on the letter.

EXAMINATION BY MS. COMSTOCK:

Question. Were you aware that Mr. Larsen disagreed with your characterization—

Answer. Reading this letter, I don't believe he disagreed. I believe he actually confirmed what I said. I will be very happy to read you a portion of it if you like.

Question. Okay.

Answer. The officer entered some data on his desktop terminal. I could not see the terminal screen. At that point he said something like, you are a regular employee.

Question. And I will continue to read: When I responded by telling him I was a former employee, he again looked at his screen and said something like, right. At that point he confirmed that I had been appropriately cleared by whoever it was I was to meet and he gave me a visitor badge.

Answer. That is exactly correct. That is what I said.

Question. Meaning a former employee would be listed as inactive as opposed to active?

Answer. I don't draw that insinuation.

Mr. RYAN. It doesn't say it in the letter.

EXAMINATION BY MS. COMSTOCK:

Question. Are you familiar at all with the designations inactive and active on the Secret Service list?

Mr. RYAN. He has already answered that question.

EXAMINATION BY MS. COMSTOCK:

Question. You are not familiar with that?

Answer. Only in the context of questions asked by the Senate staff.

Question. Returning to Exhibit 1 there, when you signed this security determination for Craig Livingstone; is that correct, that is your signature?

Answer. That is correct.

Question. And when Craig Livingstone's signature was underneath there where it says, "I certify that I have been briefed on the procedures for handling, storage and transmission of classified information in accordance with Executive Order 12958," do you know who provided him with that briefing?

Answer. I provide that briefing to everybody at the White House.

Question. Do you know when you provided that to Mr. Livingstone?

Answer. We conducted monthly security briefings for new employees. It is part of the briefing packet. I would have to see his file to get a date.

Question. Do you have a record of when he attended such a meeting?

Answer. I wouldn't have it now. I guess it would be in the electronic record. The Independent Counsel has his file. It could be in his file.

Question. On the back of this document, CGE 46166, you again signed it on December 20th. You have the clearance is granted on December 14th. Can you describe what occurred between December 14th and December 20th that there is a lag on the dates in-between?

Answer. I did the paperwork on December 14th. I gave it to Mark who was a witness there, and it was the 20th before Craig was either available or Mark could get across the street to have him sign the document.

Question. So the three of you would sign in the presence of each other, is that how it would work?

Answer. Mark signed as a witness. He would observe Craig signing the document and he would witness it. I sign it as accepting the form for the government. I don't have to witness the other two signatures.

Question. It says security debriefing acknowledgment. Did Mr. Livingstone have any security debriefing when he left the White House, to your knowledge?

Answer. Yes.

Question. Who conducted that?

Answer. My assistant, Mark Frownfelter, about two days ago.

Question. Conducted it when?

Answer. The date is Friday. One day this week Craig checked out and we did the debrief for the CIA clearances.

Ms. COMSTOCK. Thank you.

I believe that is all I have for today.

Mr. RYAN. I may have something. Give me 5 minutes.

There were points during this where I have marked down that I want to go over potentially where the answers were not completely clear either because a complete answer was not sort of permitted by the questions, et cetera. Give me 5 minutes.

[Pause.]

EXAMINATION BY MS. COMSTOCK:

Question. If I could, we got off on the safes so I didn't get back to this issue. Were you aware of Mr. Marceca having anything to do with providing access to safes in the Counsel's Office?

Answer. Mr. Marceca had no way to provide access to safes in the Counsel's Office. He did not have the combination nor access to the combination.

Question. Do you have any knowledge as—are you aware of anyone in Mr. Nussbaum's office asking Mr. Marceca to assist them in accessing Mr. Nussbaum's safe?

Answer. I am aware of an incident where Mr. Marceca went over to provide assistance, yes.

Question. Could you describe that incident?

Answer. Sure. They delivered a new safe to Nussbaum's office. It was locked closed. I checked my records, had no combination on file. I went across the street to Mr. Nussbaum's office to see if there was a standard combination put on it where I could open the safe. There was not.

I went back to Room 84, White House Security, and was telling Craig and Tony that I couldn't open the safe and Tony said he was an expert and volunteered to go across the street and open it. He was not successful.

Question. What did he describe as his expertise in that area?

Answer. He just said he knew how to open safes.

Question. Do you have knowledge of him assisting in other ways opening safes in the Counsel's Office?

Answer. No.

Question. Do you recall when that occurred?

Mr. RYAN. This is for an empty safe that we are talking about?

The WITNESS. During the time he was detailed there. I couldn't nail it down any more than that.

Ms. COMSTOCK. Okay.

Mr. RYAN. I am not going to have anything.

Ms. COMSTOCK. We are finished for the deposition of Mr. Easley. Thank you very much.

Mr. RYAN. Let me add that we will make ourselves available on the other issue, assuming that I get a letter from the Chairman telling us what the subject matter would be, and we will come up as soon as we can next week to do that.

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Ms. COMSTOCK. I will note for the record that I believe we have a disagreement as to the conditions under which we would have an additional deposition dealing with the drug-testing issue, but I think we will resolve that also by letter.

Mr. RYAN. But let me say, be very clear in the letter if you want a deposition under oath what your authority is for that and the subjects that will be covered, and then we will be glad to do it if the committee has the jurisdiction and the authority to do it.

Ms. COMSTOCK. We are also making part of the record as Exhibit 8 the letter to the witness.

[Easley Deposition Exhibit No. 8 was marked for identification.]

Ms. COMSTOCK. The record is down.

[Whereupon, at 1:13 p.m., the deposition was concluded.]

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

IN THE MATTER OF: WHITE HOUSE TRAVEL
DEPOSITION OF CHRISTINE VARNEY

TUESDAY, JULY 23, 1996
Washington, D.C.

The deposition in the above matter was held in room 2203, Rayburn House Office Building, commencing at 10:10 a.m.

Appearances:

Staff Present for the Government Reform and Oversight Committee: Kristi Remington, Investigator; Laurie Taylor, Investigator; and Matt Pinkus, Minority Professional Staff.

For: CHRISTINE VARNEY

LYN UTRECHT, ESQ.

Oldaker, Ryan, Phillips & Utrecht, ESQ.

818 Connecticut Ave., N.W. Suite 1100

Washington, D.C. 20006

Ms. REMINGTON. Good morning.

We are on the record this morning for the deposition of Ms. Christine Varney, which will be administered under oath.

Let me identify the people who are present in the room.

My name is Kristi Remington. I am Assistant Counsel for the Majority; Laurie Taylor, Assistant Counsel for the Majority.

Mr. PINKUS. Matt Pinkus, Minority Professional Staff.

Ms. REMINGTON. Ms. Lyn Utrecht is here this morning to represent the witness, Ms. Christine Varney.

Before you are sworn in, I would like to provide you with some background information concerning this investigation and your appearance here. As you know, pursuant to its authority under Rules X and IX of the House of Representatives, the Government Reform and Oversight Committee is investigating the White House Travel Office matter.

This matter refers to all events leading up to the May 19th, 1993 firings of the White House Travel Office employees and includes all



Security Procedures for the EOP Security Office

March 1998

EOP Security Office SCS 000128
Office of Administration • Executive Office of the President