

FOIA MARKER

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

Folder Title:

FBI Binder - FBI Files [1]

Staff Office-Individual:

Counsel's Office-Paxton, Sally

Original OA/ID Number:

CF 959

Row:	Section:	Shelf:	Position:	Stack:
20	5	2	3	V

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Secret Service. [partial] (1 page)	07/26/1996	b(7)(C), b(7)(F), b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Sally Paxton
OA/Box Number: CF 959

FOLDER TITLE:

FBI Binder - FBI Files [1]

2006-1066-F

vz3584

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

Office
of the
Independent
Counsel

THE WHITE HOUSE
WASHINGTON

FBI

Binder

FBI Files



Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

February 13, 1996

VIA FACSIMILE

Jane Sherburne, Esq.
Special Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Subpoena Duces Tecum Number 1213

Dear Ms. Sherburne:

Pursuant to your telephone conversation today with Deputy Independent Counsel John Bates, enclosed please find subpoena # 1213 to the Custodian of Records at the White House.

If you have any questions regarding this matter, please feel free to contact me or John Bates.

Sincerely,

Robert J. Bittman
Associate Independent Counsel

Enclosure

White

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N

Washington, D. C. 20004

telephone (202) 514-8688

facsimile (202) 514-8802

Date: 2/13/96TO: Tane Sherburne, Esq.Company Name: White House CounselFax Number: 456-1213 Telephone Number: _____FROM: Bob BittmanNumber of Pages: 10 (including this cover sheet)

Message: _____

CONFIDENTIALITY NOTE

This facsimile is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential, or otherwise protected from disclosure. Dissemination, distribution, or copying of this facsimile or the information herein by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the facsimile by mail.

a:\faxform.nmr

United States District Court

EASTERN

DISTRICT OF

ARKANSAS

TO: The White House

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

☐ PERSON ☒ DOCUMENTS OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	Federal Grand Jury U.S. Post Office & Courts Bldg., 4th Floor 600 West Capitol Little Rock, Arkansas	ROOM	#470
		DATE AND TIME	March 19, 1996 9:00 A.M.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):

See Attachment to Federal Grand Jury Subpoena.

☐ Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK	JAMES W. McCORMACK	DATE	February 12, 1996
(BY) DEPUTY CLERK	<i>Rebecca Carpenter</i>		#1213

This subpoena is issued upon application of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY
Independent Counsel
Kenneth W. Starr
W. Hickman Ewing, Jr. WKE:RJB
2 Financial Centre, Suite 134
10825 Financial Centre Parkway
Little Rock, Arkansas 72211 (501) 221-8700

*If not applicable, enter "none."

To be used in lieu of A0110

FORM 080-227
JAN. 89

Subpoena # 1213

To: The White House

SUBPOENA RIDER

A. Each and every document and communication referring or relating in any way to the persons or entities listed below:

101 River Development, Inc.
1st Ozark National Bank
Allison, Rosenblum & Hannahs
Alcohol Beverage Control Board
Angel Fire, New Mexico
Arkansas Commercial Realty
Arkansas Development Finance Authority
Arkansas Pollution Control and Ecology
Arkansas Real Estate Commission
Arkansas Savings and Loan Association Board
Arkansas Securities Department
Arkansas State Bank Board
Arkansas State Bank Department
Arkansas State Department of Finance and Administration
Arkansas State Highway Department
Bank of Cherry Valley
Bank of Kingston
Beach Abstract Company
Borod and Huggins
Brown, Rogers & Company, P.A.
Capital Management Services, Inc.
Campobello Properties Venture
Castle Grande
Castle Sewer & Water
Central Bank & Trust
Central Flying Service, Inc.
Citizens Bank & Trust, Flippin, Arkansas
Citizens Bank of Jonesboro
Collins, Locke & Lasater
Commercial National Bank
The Communication Company
First Commercial, N.A.
Flowerwood Farms, Inc.
Frost & Company
Great Southern Land Company, Inc.
Harrison & Brown, P.A.
Industrial Development Corporation
International Paper Company
International Paper Realty Corporation
Langston Energy Homes, Inc.
Lasater Farms, Inc.
Lasater and Co., Inc.

LFI, Inc.
Madison Bank & Trust
Madison Financial Corporation
Madison Guaranty Savings & Loan
Madison Marketing
Madison Real Estate
Master Marketing
Masters Marketing
McDougal & Associates
My Paradise, Inc.
Ozark Air Service, Inc.
Ozarks Escrow
Ozarks Realty Company Trustee
Ozarks Realty Company
Ozarks Realty Escrow
Paradise, Inc.
Patten, McCarthy & Associates, Inc.
Pembroke Manor, Inc.
Perry County Bancshares, Inc.
Perry County Bank
Phoenix Group, Inc.
Phoenix Mortgage Corporation
P.O.M., Inc.
Rolling Manor, Inc.
Rose Law Firm
Savings and Loan Association Board, State of Arkansas
Security Bank, Paragould, Arkansas
Southern Development Bankcorp
Spring Farms, Inc.
Spring Valley Farms, Inc.
Tucker-Smith-McDougal
Union National Bank of Arkansas
United Capital Corporation
Whitewater Development Company, Inc.
Whitewater Estates
Worthen Bank & Trust Company, N.A.
Worthen National Bank of Arkansas
Wright, Lindsey & Jennings
Neil T. Ainley
Diane Blair
Jim Blair
Helen Brandon
Herby Branscum, Jr.
Robert Brown
Gary Bunch
Paula Casey
Glenda J. Cooper
Don Denton
Kent Dollar
Jeff Gerth
David Hale
Charles Handley

David Henley
James Henley
William Henley
Sam Heuer
Robert M. Hill
Marlin Jackson
Charles James
Alston Jennings
Larry Kuca
John Latham
Daniel Lasater
Loretta Lynch
William Lyon
James Lyons
James McDougal
Susan McDougal
Robert Palmer
James N. Patterson
Dean Paul
Leslie Patten
Kirby Randolph
R. D. Randolph
Yoly Redden
Martin B. Saterfield
Beverly Bassett-Schaffer
Archie Schaffer
Maurice Smith
Steve Smith
Earl Stafford
Jeanette Stafford
J. Wesley Strange
Sue Strayhorn
Jim Guy Tucker
Chris Wade
Rosalee Wade
Seth Ward
William Watt
Norris Weese
Robert Wilson

If any of the above requested documents and/or communications have previously been produced by you, please so state and identify the documents and/or communications by Bates number.

Personal appearance is not required if the requested documents are delivered on or before the return date to Special Agent Sissy Stanton of the Federal Bureau of Investigation (telephone 501-954-4228), Suite 203, The Koger Center, Redding Building, 1701 Centerview Drive, Little Rock, AR 72211, for submission to the Grand Jury. If you choose to deliver documents in lieu of a personal appearance, you must (i) state in a cover letter whether

such production contains all responsive documents and (ii) attach a copy of this subpoena to the cover letter.

Definitions and Instructions

1. Definitions

a. The term "document" or "documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control or the possession, custody or control of any agent, employee, representative (including, without limitation, attorneys, investment advisors, investment bankers, bankers and accountants), or other person acting or purporting to act for or on your behalf or in concert with you, including, but not limited to, draft, pending or executed contracts and/or agreements, sample documents, insurance policies, financial guarantee bonds, letters of credit, communications, correspondence, calendars, daytimers, datebooks, telegrams, facsimiles, telexs, telefaxes, electronic mail, memoranda, records, reports, books, files (computer or paper), summaries or records of personal conversations, meetings or interviews, logs, summaries or records of telephone conversations and/or telefax communications, diaries, forecasts, statistical statements, financial statements (draft or finished), work papers, drafts, copies, bills, records of payments for bills, retainer records, attorney time sheets, telephone bills and records, telefax bills and records, tax returns and return information, employee time sheets, graphs, charts, accounts, analytical records, minutes or records of meetings or conferences, consultants' reports and/or records, appraisals, records, reports or summaries of negotiations, brochures, pamphlets, circulars, maps, plats, trade letters, depositions, statements, interrogatories and answers thereto, pleadings, docket sheets, discovery materials, audit letters, audit reports, materials underlying audits, document productions, transcripts, exhibits, settlement materials, judgments, press releases, notes, marginal notations, invoices, documents regarding collateral or security pledged, settlement statements, checks disbursed or received at settlement, inspection reports, title policies, financial statements and/or federal tax returns submitted by any person in support of any loan application, items related the repayment, if any, of any interest or principal on the loan, items relating to any default on the loan, commission records, evidence of liens, documents relating to filings under the Uniform Commercial Code and/or its equivalent, foreclosure and mortgage documentation, cashiers checks, bank drafts, money orders, bank and brokerage account statements, debit and credit memoranda, wire transfer documentation, opening account cards, signature cards, loan applications, any employment and bank account deposit verification documents, loan histories, loan files, records of loan repayment or any and all efforts to secure repayment, including foreclosure or records of lawsuits, credit references, board resolutions, minutes

of meetings of boards of directors, opinion letters, purchases and sales agreements, real estate contracts, brokerage agreements, escrow agreements, loan agreements, offer and acceptance contracts, or any other contracts or agreements, deeds or other evidence of title, escrow accounts and any other escrow documentation, savings account transcripts, savings account deposit slips, savings account withdrawal slips, checks deposited in savings accounts, checking account statements, cancelled checks drawn on checking accounts, deposit slips and checks deposited into checking accounts, credit card accounts, debit and credit documentation, safe deposit records, currency transaction reports (IRS Forms 4789), photographs, brochures, lists, journals, advertising, computer tapes and cards, audio and video tapes, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compile the production of the document or a copy from another person or entity having physical possession, including, but not limited to, your counsel.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

12/19/80 TEL 10:55 FAX 1020140002 4009

e. The term "you" means yourself and any of your companies, partnerships and business entities with which you have been affiliated and any employees, partners, associates or members of any firm with which you have been affiliated in the course of your work for any of the persons or entities named in this rider, and any such firms and the affiliates of those firms.

2. Instructions

a. The originals of all documents and communications must be produced, as well as copies within your possession, custody, or control.

b. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

c. Documents shall be produced as they are kept in the usual course of business, as organized in the files.

d. File folders, labels, and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document, or portion thereof, called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown, or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, including the purpose and circumstances surrounding the creation of the document, the identity of each person who has been privy to such communication reflected in the document, the identity of any person or entity instructing the subpoena recipient or the attorney of the subpoena recipient to withhold production of the document, and

whether you will submit the document to the Court for an in camera determination as to the validity of the claim. If the existence of a joint defense agreement or any agreement as to common interest is relevant to the assertion of any claim of privilege or similar claim, please provide a copy of that agreement; if any such agreement is not in writing, please set forth the date of the creation of the agreement, the identities of all parties to the agreement and the specific individuals who entered into the agreement on behalf of those parties, and the objects, purposes, and scope of the agreement.

h. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration, or disposal and the circumstances thereof; and (l) the reasons, if any, for the loss, destruction, deletion, alteration, or disposal and the person or persons responsible.

i. If any information or data is withheld because such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

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Redundant areas should be identified and avoided. N.B. During the course of the review, several comments were made regarding the excessive length of the clearance process which caused administrative problems. It is noted, however, that a great deal of attention has been given to this issue and as of May 11th, 76% of the staff had been issued passes. The balance were either in the adjudication process, pending a BI or awaiting paperwork (2%).

Recommendation No. 2

If, in the adjudication process, a conscious application of criteria governing access to national security information is not applied, then this should occur forthwith. Personnel involved in the adjudication process should refamiliarize themselves with these instructions which are included in Chapters 731, 732, 735 and 736 of the Federal Personnel Manual as amended by the FPM Sunset Document.

Note: The Diplomatic Security Service is prepared to detail a senior Personnel Security Adjudicator to work within the WHPS for a short period to assist in the establishment of this process and provide informal OJT of personnel as necessary.

Recommendation No. 3

To assist in the timely retrieval of information concerning the level of clearance granted/held by each employee who is a member of any element of the EOP or who holds any type of pass allowing unescorted access to any EOP facility, a data base should be created. Information should be available in this system to any of the security officers within the EOP structure. This will also aid considerably in the passing of clearances in a timely fashion to other USG agencies.

Recommendation No. 4

Signing of the SF 312 and the resulting acknowledgement of one's responsibilities in the protection of classified information is inconsistent. Throughout the EOP, common procedures should be established in the clearance issuance and briefing process to insure the SF 312 is signed by each person granted access to classified material.



CGE 048219

NON RESPONSIVE MATERIAL REDACTED

THE WHITE HOUSE

WASHINGTON

TO: TERRY GOOD
DIRECTOR OF RECORDS MANAGEMENT

FROM: CATHARINE MOSCATELLI *CM*
OFFICE OF THE COUNSEL

DATE: APRIL 9, 1996

RE: MARCH 25, 1996, SUBPOENA FROM THE INDEPENDENT
COUNSEL

The Executive Office of the President received a subpoena from the Office of the Independent Counsel on March 25, 1996. Specification 6 reads:

Any and all gate, post, entry, or exit logs, books, records, or other documents for any and all entrances into, exits from, or locations within the White House grounds, the White House, or the Old Executive Office Building for May 10, 1993, through May 19, 1993, inclusive. That includes but is not limited to any and all WAVES records.

I understand that each month's records are printed out such that all WAVES requests for the entire month are contained in one, fairly voluminous, printout. I also understand that these records are also stored electronically. I would like to obtain a printout of all WAVES records for only the May 10th-19th, 1993, time period.

If you should have any questions, please feel free to call me at 6-5082.

Withdrawal/Redaction Marker

Clinton Library

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RR. Document will be reviewed upon request.

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MEMORANDUM FOR WENDY WHITE, COUNSEL'S OFFICE

DATE: JULY 26, 1996

THROUGH: TERRY GOOD, DIRECTOR RECORDS MANAGEMENT

FROM: TOM TAGGART JR. *TTJR*

SUBJECT: LOADING GATE LIST TAPES

AS A REMINDER -

IN ORDER TO LOAD GATE LIST TAPES AND RUN PRINTOUTS FOR MATERIAL REQUESTED AN OFFICIAL REQUEST MUST BE FORWARDED TO SPECIAL AGENT IN CHARGE COLLEEN CALLAHAN, ROOM 23 OEOB. THE REQUEST WILL THEN BE FORWARDED TO (b)(6), (b)(7)c, (b)(7)f WAVES CENTER (b)(6), (b)(7)c, (b)(7)f WILL THEN REQUEST THE TAPES FROM WHITE HOUSE RECORDS MANAGEMENT.

[001]

THERE ARE 42 TAPES FOR THE PERIOD INDICATED IN THE REQUEST FOR JANUARY 1993 TO JUNE 1996 (b)(6), (b)(7)c, (b)(7)f HAS INDICATED THAT IT TAKES APPROXIMATELY 40 TO 50 MINUTES TO LOAD A TAPE AND AN HOUR OR SO TO PROCESS MATERIAL.

COPY TO: ANNA CHAVEZ, COUNSEL 593 OEOB ✓

(b)(6), (b)(7)c, (b)(7)f

(b)(6), (b)(7)c, (b)(7)f

*Dm. Waves
Center*

COPY

July 9, 1996

MEMORANDUM FOR JACK QUINN
COUNSEL TO THE PRESIDENT

FROM: TERRY GOOD
DIRECTOR
OFFICE OF RECORDS MANAGEMENT

RE: REQUEST FROM SENATOR ORRIN HATCH

On July 3, 1996, Senator Hatch sent a letter to Mr. Panetta with carbon copies to you and me, requesting that certain records, documents, and information be provided to the Senate Judiciary Committee.

As with previous requests of this nature we will proceed to search for relevant records in our custody, working with members of the Counsel's Office to insure that our understanding of the request and our procedures are correct.

If a memorandum is sent out to the staff asking that a search of their files be undertaken, I would suggest that the Secret Service also be contacted in response to those items listed as: (E), (F), and (G), all relating to individuals entering or leaving the White House complex. While the Office of Records Management has often coordinated or performed searches of the USSS "Gate Lists" in our custody, in this instance, we believe that the magnitude of the search is such that the request would be more appropriately generated from your office.

I might add that those Gate Lists in our custody are in Room 563, which is currently sealed and inaccessible to us.

THE WHITE HOUSE
WASHINGTON

June 18, 1996

COPY
from ORM

MEMORANDUM FOR WENDY WHITE
SPECIAL ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: TERRY GOOD *T. Good*
DIRECTOR
OFFICE OF RECORDS MANAGEMENT

RE: USSS GATE LISTS

You have asked for the USSS Gate List for May 1993. We are prepared to make this information available to you in our office. We will work with you if you wish to consider making duplicate copies of any of this information. It may be worthwhile to consider having the printouts copied by the Duplicating Shop, under supervision, if you need copies of many pages. As in the past, I would suggest working with Tom Taggart of our office. He can be reached at 62242.

Attached is a very brief overview of the USSS Gate Lists. This may be helpful for new staff members to review.

The USSS sends to the Office of Records Management on a monthly basis information received and compiled during the previous month on the names of individuals who were provided to the USSS in anticipation of their entry into the White House, the OEOB, and the NEOB.

We understand that USSS undertakes an investigation of each of these individuals prior to granting them permission for entry.

Information in the box(es) generally includes computer printouts entitled:

- Entries for Visitee POTUS
- WAVES Visitor Summary
- WAVES Worker Summary
- WAVES Valid Work Orders

There are often folders containing additional information. For the month of May, 1993, there are folders labelled:

- Press Events
- Pantry Lists
- Volunteer Additions
- Work Orders

There is always an expandable file folder that contains paper requests for appointments. These are arranged chronologically by date for the month. These will contain paper records of clearance requests in various forms, hard copy, faxed, or e-mail. It is not known to me whether records of telephone requests, which are limited to five or fewer names, would be paper copied and included in this file.

There is another file that was initially included with the box(es). It is entitled the "F - 1 Logs" and contains information regarding movements to/from the First Family's living quarters in the Residence. During this Administration, it is being delivered to ORM separately and filed separately.

While ORM staff members have occasionally searched these records for information, I am hesitant to further describe their nature in instances where this information may be submitted as evidence in court or Congressional hearings. I would prefer to suggest that a fuller understanding of this information is available from the USSS. It will be able to answer questions regarding how the information is gathered and what the various printouts contain.

USSS could also address any questions regarding the accuracy and completeness of the information.

Also included in the box(es) is a computer tape that I understand contains much/all of the information mentioned above.

I understand that the information provided to ORM does not include entry/exit records of pass holders.

THE WHITE HOUSE
WASHINGTON

July 31, 1996

VIA HAND DELIVERY

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

Dear Chairman Clinger:

This responds to your letter of July 19, 1996, in which you asked for information and materials related to "individual random drug testing" at the White House.

As you may now know, the President's policy on drug use by White House staff is absolutely clear: zero tolerance. All applicants are tested before they report for work. Anyone who tests positive for drugs will be immediately relieved of his or her duties. No one who uses drugs illegally will work at this White House. And, to enforce this drug-free policy, we have a rigorous random drug testing policy that applies to all White House staff.

Each day, when White House employees report to work, they know that they may receive a letter requiring that they report for a drug test that day. Each year, approximately 12 percent of our employees are tested. They never know in advance that they will be tested.

In addition to the random testing applicable to all employees, 21 of the approximately 3,000 individuals who have served in the Executive Office of the President since January, 1993 -- nine of whom still work in the Executive Office of the President -- have been subject to more frequent, regular, non-random, surprise testing because of their past drug use. None of these 21 has ever tested positive in these tests. And, I emphasize that this more frequent testing is not "random," as you describe it. It is unannounced like our standard random tests, but this effort provides for twice-a-year tests precisely for these particular employees. Hence, I refer to this testing in this letter as "special drug testing."

The White House's comprehensive zero tolerance policy, which includes the above-described drug testing, ensures that our workplace remains drug free. We commend our program to the Congress, which, I gather, has no testing program. ("Drug Tests Still a Rarity on the Hill", Roll Call, July 22, 1996).

The Honorable William Clinger, Jr.

July 31, 1996

Page 2

In preparing our response to your letter, we are mindful of your clear statement that you are not seeking information relating to particular individuals. As you have recognized, the disclosure of such information would raise serious privacy concerns. I am confident that we can nevertheless provide to you information to shed light on the President's drug-free workplace policy and, in particular, how it applies in the cases of those whose experiences with drugs in their past, and later commitment to a drug-free life, led to their being subjected to special drug testing.

Having said that, I must tell you that we have struggled to discern how we may be specifically responsive to your first and second requests without divulging information that would relate to particular individuals -- which you made clear you do not want us to do -- or leave you with documents that are so heavily redacted that they will not aid your understanding of the issues. Your second request, in particular, asks about four specific individuals by name. This request could be understood to suggest that you wish us to review these individuals' FBI background investigation files to see whether there is derogatory information of any sort that might have caused the Secret Service to raise a "concern". I invite you to call me to discuss these concerns.

In response to questions No. 3 and No. 4, I do want to make sure that you are informed about how special drug testing works. As part of its routine process for ascertaining the suitability of individuals for employment in the Executive Office of the President (EOP), all applicants are required to complete a pre-employment questionnaire, submit to a pre-employment security interview, and submit to a drug test¹. Within 30 days of entering on duty, employees are required to submit a *Questionnaire for Sensitive Positions* (SF-86) and appropriate releases so that the FBI can conduct a background investigation. Upon completion of that investigation, the FBI background investigation file and related materials are referred to the Secret Service and, as appropriate, a recommendation is made for the issuance of a permanent pass.

In a small number of instances, the Office of White House Counsel, in consultation with the Secret Service, determined that an individual should be issued a pass only if he or she agrees to be subject to the more frequent, non-random special drug testing protocol described above. This means being tested unannounced twice a year under the same conditions as the standard random testing program in the EOP's Drug-Free Workplace Plan. These individuals are so designated because information developed in the course of the security clearance process or supplied by the individual suggested that it would be prudent to

1 Only applicants for Testing Designated Positions (TDPs) pursuant to the Drug-Free Workplace Plan are required to submit to a drug test. All employees in the White House and well over 95% of EOP employees are in TDPs.

The Honorable William Clinger, Jr.

July 31, 1996

Page 3

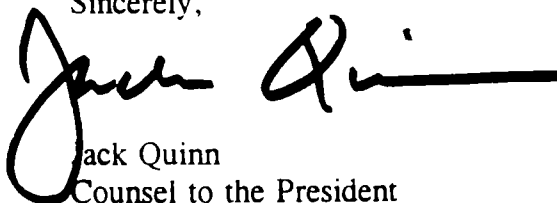
do so. **However, it bears emphasis that, as the Secret Service has acknowledged, the White House has never directed the Secret Service to issue a pass in circumstances where it was otherwise reluctant to do so.** See GAO Report B-265771, 18 (October 15, 1995) ("Personnel Security").

The White House Counsel's Office periodically advises the Office of Administration (OA), which administers the EOP random testing program, of the names of the individuals currently subject to special testing, to ensure that those individuals are included in unannounced tests twice each year. Periodically throughout the year, in the ordinary operation of its random testing program, OA draws a random sample of employees in TDPs. The individuals subject to special testing are called as part of that process and are tested under the same conditions as other EOP employees.

The White House Counsel Office staff who have been involved since 1993 in the overseeing or supervising of special drug testing are Bill Kennedy, Beth Nolan, and Chris Cerf. Of course, there are also career staff in OA who assist in administering the tests.

To aid your further understanding of how special drug testing works, I am enclosing copies of some of the relevant forms, including a sample of the agreement that a White House staff person subject to special drug testing would sign, and a copy of the EOP's Drug-Free Workplace Plan.

Sincerely,



Jack Quinn
Counsel to the President

Enclosures

cc: The Honorable Cardiss Collins

THE WHITE HOUSE

WASHINGTON

**PRIVILEGED AND CONFIDENTIAL
EYES ONLY**

MEMORANDUM FOR MARY BECK
OFFICE OF ADMINISTRATION

FROM: BETH NOLAN *BN*
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Drug Testing

As we have discussed, the Counsel's Office will be notifying you from time to time of the names of individuals who should be subject to unannounced drug testing. Attached is a list of persons who should be scheduled for such testing this month. Please report to me that such testing has occurred. Any positive results should also be reported to me.

Please call me at 6-6229 if you have any questions.

MEMORANDUM FOR FILE

FROM: CRAIG LIVINGSTONE
DIRECTOR, WHITE HOUSE PERSONNEL SECURITY

RE: {Insert Name}

On April 25, 1994, {Insert Name} was interviewed by Craig Livingstone regarding drug abuse as set forth in the Federal Bureau of Investigation's full field background investigation dated {Insert Date}.

{Insert Name} acknowledged the drug use set forth in the investigation. {Insert Name} was informed that any { } {illegal use of controlled substances} would be grounds for and would result in immediate termination. {Insert Name} agreed to submit to random drug testing in the future, as may be requested by the Office of Management and Administration, and agreed adverse results of any such testing will be shared immediately with the United States Secret Service. Such random testing will consist of at least two tests per calendar year, to be administered by the Personnel Management Division of the Office of Management and Administration.

{Insert Name}, by the placing of {her or him or his} signature below, has acknowledged that (i) {he or she} has read and understood fully the matters addressed herein; (ii) has been advised that {he or she} is entitled to obtain the advice of counsel regarding the contents hereof prior to its execution, and has obtained such advice if deemed necessary; (iii) is executing this Memorandum in the exercise of {her or his} free will, with a full understanding of the meaning hereof and without duress or coercion, and (iv) agrees that the information contained herein may be released to the United States Secret Service.

Executed this ____ day of _____, 1994.

Signature

cc: SAIC/White House Division
United States Secret Service

THE WHITE HOUSE
WASHINGTON

July 30, 1996

BY HAND DELIVERY

The Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform and Oversight
2127 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John L. Mica
Chairman
Subcommittee on Civil Service
Committee on Government Reform and Oversight
B371C Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20513

Dear Chairmen Clinger and Mica:

This letter responds to your letter of July 2, 1996, regarding the Personal Data Statement Questionnaire (PDS) distributed to White House employees.

The PDS is part of the standard packet of forms distributed to prospective or new employees of the White House Office, the Office of Policy Development, the Office of the Vice President, and the Executive Residence. The packet also includes instructions, the Questionnaire for National Security Positions (SF-86), a memorandum of consent to an FBI background investigation, and an IRS tax check waiver. Until recently, the packet was distributed by the White House Office of Personnel Security (OPS); it currently is distributed by the EOP Security Office through the Office of Administration and various administrative contacts. (As you may know, the functions of the OPS were recently taken over by the EOP Security Office.)

All employees of these offices, including the Executive Residence, are non-career employees appointed under Title 3 of the United States Code, as opposed to Title V under which career civil servants are appointed. The packet normally is provided to new hires who have been offered employment contingent on a determination of their suitability, which is based on review of the forms and successful completion of an FBI background check. The packet also has been distributed by the OPS to employees of

Hon. William F. Clinger, Jr.
Hon. John L. Mica
July 30, 1996
Page 2

the Offices listed above in connection with the required five-year update of their FBI background investigations.

Until recently, the PDS forms were returned to the OPS and reviewed by its Director. Today, the forms are returned to the EOP Security Office and are reviewed by the EOP Security Officer. The forms were and are also occasionally reviewed by attorneys in the White House Counsel's Office. The purpose of the review is to ensure the suitability of individuals selected for employment in the White House.

The PDS also is distributed in connection with vetting of non-career members of the Senior Executive Service (SES) employed by Office of National Drug Control Policy (ONDCP), the Office of Science and Technology Policy (OSTP), and the United States Trade Representative (USTR). The completed PDS forms collected by the ONDCP, OSTP, and USTR are reviewed by their respective general counsel offices to determine suitability for appointment of their non-career SES officials.

Attached at Tabs A through F are several versions of the PDS form used during this Administration. The form at Tab A, which has thirty-three questions, was the original version used by the OPS. The form at Tab B, which has forty-three questions, was used by the OPS beginning in the latter half of 1995. The form at Tab C, which has thirty-three questions, was used for a short period of time by the OPS after the longer form had been in use for some time; this form apparently was prepared erroneously by an OPS employee using the older form as a model. The form at Tab D is the form currently used by the EOP Security Office. Finally, the forms at Tab E and F are, respectively, a former and a current version of the PDS used in vetting non-career members of the SES. Although other versions of the form differing in non-substantive ways -- for example, with regard to routing information or typeface -- may have been used, we believe the forms attached fairly reflect the substance of the PDS's distributed within the EOP during this Administration.

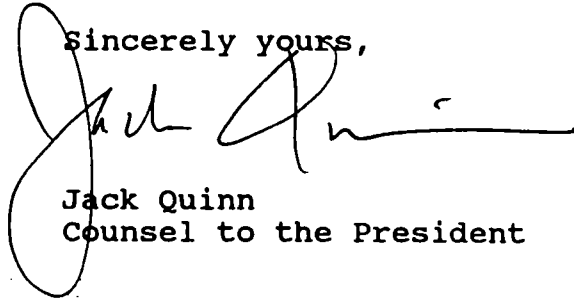
We have not discerned the precise time periods that each version of the form was in use. To attempt to do so, we would have to review the personnel security files of individual employees hired at different times to determine from those records, if possible, which PDS each received. This exercise, which seems unwarranted because of the substantial similarity of the PDS forms used throughout this Administration, is infeasible at this time because of restrictions on access to the relevant

Hon. William F. Clinger, Jr.
Hon. John L. Mica
July 30, 1996
Page 3

records that we are currently observing at the request of the Independent Counsel.

I hope this information is helpful.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jack Quinn", written over the typed name.

Jack Quinn
Counsel to the President

Attachments

cc: Hon. Cardiss Collins
Hon. James Moran

THE WHITE HOUSE
WASHINGTON

July 30, 1996

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

Dear Chairman Clinger:

This letter responds to the questions posed in your letter of July 22, 1996:

1. **The name of the office or agency which has the responsibility of granting security clearances for White House staff members.**

We understand your use of the term "security clearance" in these questions to mean a certification that an individual who requires access to information classified for national security purposes has been found eligible for and may therefore be permitted access to classified information, assuming, of course, that the individual has a need to know the particular information to which he or she seeks access. Security clearances can cover "Confidential," "Secret" or "Top Secret" information.

It bears emphasis that access to classified information requires two things: first, an appropriate level of "clearance," and second, a particularized need to know the classified information that might be imparted. It would be quite incorrect to assume that individuals who have a "Top Secret" clearance may therefore see Top Secret information, without regard to whether they need to have such access.

Since October 1995, the Executive Office of the President (EOP) Security Office in the Office of Administration has been responsible for granting security clearances for White House Office staff. Before October 1995, White House Office staff access to classified information was a function of receiving a permanent pass permitting access to the White House proper. This is because up until that date, consistent with the practice of prior Administrations, and as more fully explained below in our response to No. 6, the issuance of a permanent White House pass was treated as equivalent to a Top Secret clearance, again, assuming a need to know. Issuance of a permanent pass, in turn, was determined based on completion of the appropriate FBI background investigation and other reviews and a subsequent "suitability" determination. The compilation of these investigations was undertaken by the White House Office of

Personnel Security, the office responsible for assisting the Counsel's Office in making suitability determinations for White House employees.

In addition, several agencies (e.g., CIA and DOE) maintain "special access programs" for information within their domains. Officials from those agencies are responsible for granting special clearances (e.g., SCI clearances or "Q" clearances) to eligible White House Office staff with a need to know.

2. **The name of the individual who is currently the head of the office or agency, and any other individuals who have headed that office since January, 1993.**

Charles C. Easley, the EOP Security Officer, has headed the EOP Security Office since October 1986.

Craig Livingstone headed the White House Office of Personnel Security from March 1993 until June 1996. Jane Dannenhauer headed the office before March 1993. On June 19, 1996, the responsibilities handled by the White House Office of Personnel Security were transferred to the EOP Security Office, which previously handled personnel security matters for the rest of the EOP agencies.

3. **The process by which an individual working in the White House obtains a security clearance. Please include in the explanation, a chain of command for the application and other paperwork, a description of the forms that are completed by the applicant, and where the records for the security clearances on White House staff are stored.**

The process for granting security clearances to White House Office employees is governed by EO 12968, which was promulgated on August 2, 1995. The process begins with a staff member completing the forms that must be submitted as a prerequisite to the initiation of the background investigation required of all White House Office staff members. The staff member completes the following documents: Standard Form (SF) 86 (and accompanying consent form) and an IRS Tax Waiver form. The SF 86 provides employment and other personal history information about the individual. The IRS Tax Waiver Form, when completed and signed by the individual, authorizes the IRS to release to the White House information about the individual's history of compliance with the tax laws.

Upon receipt of these completed forms, the EOP Security Office (or, until June 1996, the White House Office of Personnel Security) asks the FBI to initiate a background investigation and requests a tax check report from the IRS.

Upon favorable completion of the FBI background investigation and IRS tax check, the EOP Security Officer requests the employing office to indicate what level of access to classified information the staff member will require. The EOP Security Officer will then review the file and determine whether the individual is eligible for access to information at the level requested by the employing office. If a favorable adjudication is made, the individual is briefed on the procedures for handling, storage and transmission of classified information in accordance with EO 12958, dated April 17, 1995. The individual must also sign a non-disclosure agreement (SF-312), in which the individual pledges under penalty of criminal law not to disclose classified information to any unauthorized individual. At that point, by means of a written document known as a security determination, the EOP Security Officer grants the individual a security clearance at the appropriate level.

Currently, all documents involved in the granting of security clearances for White House Office employees are maintained in Room 84, OEOB (formerly the White House Office of Personnel Security) or in Room 4018, NEOB (the EOP Security Office). These documents include the security forms described above, the background investigation files, the employing office's request that the individual be granted a security clearance, the SF-312, and the written security determination.

EO 12968 also provides for the granting of a temporary security clearance, which may be done when the employee has completed the security forms described above and a background investigation has been initiated.

4. **Please state whether current FBI full field background investigations are used in the completion of security clearances for White House staff members.**

Yes.

5. **Please state whether the completion of a Name Check request can constitute the basis for a security clearance, for any purpose, in the White House.**

Completion of a name check request alone cannot constitute the basis for a security clearance, unless the name check request reveals the existence of a recent background investigation that may make a new background investigation unnecessary. EO 12968,

since August 2, 1995 the executive order governing the granting of security clearances, provides that a security clearance (even a temporary one) may not be granted until a full field background investigation is initiated.

6. **State whether the process in place for the granting of security clearances in the White House has changed in any way since January of 1993. If so, please provide a full explanation of any amendments to the process, and the reasons for those amendments.**

The process for granting security clearances to staff of the White House Office changed in October 1995 as a result of new procedures implemented in accordance with EO 12968, which was promulgated on August 2, 1995. One effect of this new executive order was to subject the White House Office to the same regime that governs other agencies' granting of security clearances.

Prior to this, the granting of security clearances for executive branch employees was governed by EO 10450, which did not apply to the White House Office. Accordingly, throughout the Bush and Reagan Administrations and up until October 1995, the White House Office did not formally grant security clearances to its employees. Because the procedures and criteria for issuing permanent White House passes were similar to those required for issuing clearances under EO 10450, the White House Office before October 1995 considered a White House pass to be the equivalent of a "Top Secret" clearance. Accordingly, the White House Office permitted employees with permanent White House passes and a need-to-know to have access to classified information up to the Top Secret level. This practice was followed in the Bush and Reagan Administrations. In promulgating EO 12968, however, the Clinton Administration consciously chose to draft it in such a way that it applied to the White House Office, in the belief that White House Office staff should be subject to the same security clearance procedures required for employees throughout the executive branch.

Prior to October 1995, matters relating to White House Office employee access to classified information were handled by the White House Office of Personnel Security, because that office coordinated the issuance of White House passes, which were treated as granting access to classified information on a need-to-know basis.

7. State if, at any time, the granting of a temporary pass by the U.S. Secret Service to a White House employee constituted any level of security clearance. If so, please state the level of security clearance conferred upon a White House temporary passholder.

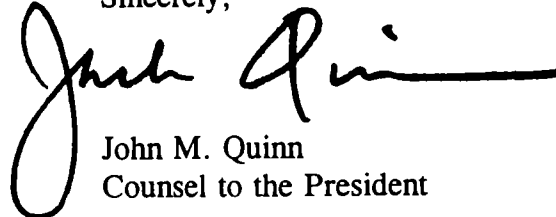
As discussed above, until October 1995 and for many years before, a permanent White House pass was treated as equivalent to a Top Secret clearance, on a need-to-know basis. As a result of changes instituted by the Clinton Administration, the security clearance process for White House Office employees has been formalized. The determination that an individual may have access to national security information is now separate from the determination that the individual may hold a White House permanent pass.

The issuance of a temporary pass alone has not in this Administration been viewed as the automatic equivalent of any level of security clearance. However, there have always been circumstances in which the holder of a temporary pass may be granted a security clearance on another track -- for example, a temporary employee with a completed background investigation at another agency that could form the basis for an eligibility determination, or an employee whose background investigation has been favorably completed but to whom a permanent pass has not yet been issued.

8. State if, at any time, the granting of a permanent pass by the U.S. Secret Service to a White House employee constituted any level of security clearance. If so, please state the level of security clearance conferred upon a White House permanent passholder.

This question is answered in the response to No. 6, above.

Sincerely,



John M. Quinn
Counsel to the President

cc: The Honorable Cardiss Collins

July 18, 1996

By Hand

Ms. Emilia DiSanto, Special Investigator
Mr. Paul J. McNulty, Chief Counsel
House Judiciary Subcommittee on Crime
207 Cannon Building
Washington, D.C. 20515

Dear Emilia and Paul:

I am enclosing substantially all White House documents collected pursuant to the Subcommittee's document request of June 18, 1996 (Bate Nos. L 00580-L01202).

A very small number of documents have been withheld at this point because they appear to be subject to a claim of executive privilege. These documents include a number of handwritten notes by the President, a memorandum prepared by a White House senior advisor for the President, and notations made by the President in the margins of a newspaper article. With respect to these documents, we propose to follow the protocol set out in my July 11, 1996 letter to you whereby Chairman McCollum and Ranking Member Schumer and/ or their designated staff will review the documents in camera.

There is also a vetting file for Arthur Coia containing highly confidential information gathered in connection with the vetting process. We will need to discuss further the treatment to be given to this type of sensitive material.

Finally, in collecting responsive documents to the Subcommittee's request, we have received various printed matter published by LIUNA. At this point, we have merely included in the document submission a copy of the cover page of such material. If you are interested in reviewing the remainder of these catalogues and brochures, we will provide the materials to you.

With best wishes,

Sincerely yours,

Jonathan R. Yarowsky
Special Associate Counsel
to the President

cc: John F. Flannery, Esq.
Tom Diaz, Esq.

THE WHITE HOUSE

WASHINGTON

July 24, 1996

By Hand

Ms. Emilia DiSanto, Special Investigator
Mr. Paul J. McNulty, Chief Counsel
House Judiciary Subcommittee on Crime
207 Cannon Building
Washington, D.C. 20515

Dear Emilia and Paul:

Pursuant to your request of June 18, 1996, enclosed are
WAVES records for Arthur Coia (Bates Numbers L 01203 - L 01217).

Sincerely yours,



Jonathan R. Yarowsky
Special Associate Counsel
to the President

Enclosures

cc: Mr. John F. Flannery
Special Counsel
House Judiciary Committee
B-351-C Rayburn Building
Washington, D.C. 20515

Mr. Tom Diaz
Minority Chief Counsel
House Subcomm. on Crime
111 Cannon Building
Washington, DC 20515

copy

THE WHITE HOUSE
WASHINGTON

July 24, 1996

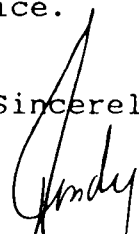
By Hand

Ms. Emilia DiSanto, Special Investigator
Mr. Paul J. McNulty, Chief Counsel
House Judiciary Subcommittee on Crime
207 Cannon Building
Washington, D.C. 20515

Dear Emilia and Paul:

Pursuant to your request of June 18, 1996, enclosed is one additional document we have located. (Bates Number L 01218). This is a redacted copy of a computer generated tracking list for individuals who at some time after the beginning of the Administration were under consideration for a Presidential appointment. As the chart reflects, the proposed nomination of Mr. Coia never proceeded after the "start memo" initiating a name check was sent to the Department of Justice.

Sincerely yours,



Wendy S. White
Associate Counsel
to the President

Enclosures

cc: Mr. John F. Flannery
Special Counsel
House Judiciary Committee
B-351-C Rayburn Building
Washington, D.C. 20515

Mr. Tom Diaz
Minority Chief Counsel
House Subcomm. on Crime
111 Cannon Building
Washington, DC 20515

July 18, 1996

By Hand

Mr. John F. Flannery
Special Counsel
House Judiciary Committee
B-351-C Rayburn Building
Washington, D.C. 20515

Mr. Tom Diaz
Minority Chief Counsel
House Subcommittee on Crime
111 Cannon Building
Washington, DC 20515

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With best wishes,

Sincerely yours,

Jonathan R. Yarowsky
Special Associate Counsel
to the President

cc: (see following page)

cc: Ms. Emilia DiSanto, Special Investigator
Mr. Paul J. McNulty, Chief Counsel
House Judiciary Subcommittee on Crime
207 Cannon Building
Washington, D.C. 20515

FACT SHEET ON CHRIS EMERY

- The FBI conducts reinvestigations of White House employees every five years. Chris Emery, who worked as an usher in the White House Residence, has alleged that in 1993 the White House accelerated his FBI reinvestigation, which was not due to be conducted until 1996. He alleges that the White House used the information in his completed forms as the basis for terminating his employment.
 - Mr. Emery is not a civil service employee. His service was at the pleasure of the President.
 - Mr. Emery was terminated in early March of 1994. According to news accounts, Mr. Emery was released from service because he showed "an incredible lack of discretion." News reports in 1994 reported that Mr. Emery had discussed personal matters about the Clintons with Mrs. Bush.
- The FBI conducted Mr. Emery's first background investigation in 1986; as required, he was reinvestigated by the FBI in 1991.
 - The Office of Personnel Security ("OPS") requested Mr. Emery's reinvestigation in 1993 because it had no record that Mr. Emery had been reinvestigated in 1991.
 - On September 27, 1993, the FBI responded to a request by OPS (as part of OPS' effort to update its files) for Mr. Emery's previous FBI reports by providing **only** the report from his 1986 background investigation. Based on this information, it appeared that Mr. Emery was overdue for a reinvestigation.
 - The White House requested Mr. Emery to complete the various forms to commence a reinvestigation in November 1993. On January 5, 1994, the FBI received the paperwork necessary to start a reinvestigation, which included a consent form signed by Mr. Emery on November 15, 1993.
 - Mr. Emery refused to complete the Personal Data Statement Questionnaire, but did complete the waiver for an IRS tax check.
 - An informal communication between the FBI and OPS on January 7, 1994 uncovered that the FBI had failed to provide OPS with a copy of the 1991 FBI summary report in its request for previous reports sent in September 1993. As

a result of identifying this error, the FBI did not initiate a background investigation and instead provided a copy of the 1991 previous report to OPS.

- The allegation that the White House would have requested an early reinvestigation of Mr. Emery's file to justify his termination does not make sense: Mr. Emery served at the pleasure of the President and could have been asked to leave at any time.
- Neil Lattimore commented upon allegations that the First Lady was involved with the obtaining of Mr. Emery's background summary file, "She doesn't know about any of this. We don't need any files to fire a worker who serves at the pleasure of the President."

DAN BURTON
7TH DISTRICT, INDIANA

COMMITTEES:
INTERNATIONAL RELATIONS

SUBCOMMITTEE:
WESTERN HEMISPHERE
CHAIRMAN

GOVERNMENT REFORM AND OVERSIGHT

SUBCOMMITTEE:
CIVIL SERVICE



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

July 26, 1996

WASHINGTON OFFICE:
2411 RAYBURN BUILDING
WASHINGTON, DC 20515-1406
TELEPHONE: (202) 225-2776

DISTRICT OFFICES:
8909 KEYSTONE AT THE CROSSING
SUITE 1050
INDIANAPOLIS, IN 46240
TELEPHONE: (317) 846-0201
TOLL-FREE: (800) 382-6070

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

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

Dear Ms. Sherburne:

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

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

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

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

Sincerely,

Dan Burton
Member of Congress

DB:jts
Enclosure

THE WHITE HOUSE
WASHINGTON

July 9, 1996

BY TELECOPY

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

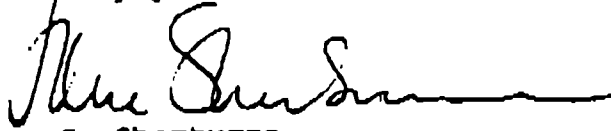
Dear Representative Burton:

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

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

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

Sincerely yours,



Jane C. Sherburne
Special Counsel to the President

Enclosures

cc: Hon. Cardiss Collins

TAX CHECK WAIVER

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

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

The information I wish released is:

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

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

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

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

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

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

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

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

THE WHITE HOUSE
WASHINGTON

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

MY NAME: _____ MY S.S.#: _____

PHONE NUMBER(S), HOME: _____ WORK: _____

I. IF MARRIED AND FILED A JOINT RETURN:

HUSBAND/WIFE NAME: _____

HUSBAND/WIFE SS#: _____

II. CURRENT ADDRESS: _____

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

YEAR	NAME	ADDRESSES
_____	_____	_____
_____	_____	_____
_____	_____	_____

DATE: _____
(WALVER INVALID UNLESS RECEIVED BY
IRS WITHIN 60 DAYS OF THIS DATE)

(SIGNATURE OF TAXPAYER AUTHORIZING THE
DISCLOSURE OF RETURN INFORMATION)

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

U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

June 25, 1996

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

Dear Mr. Chairman:

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

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

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

07/28/96, FRI 14:22 FAX 1 202 225 2276
JUL 18 96 09:57 FROM: COMMUNICATIONS
124-5388 OFC GEN COUNSEL

CONG. BURTON
2024561213
Page 1

TO: 1 202 225 2276

JUN-23 108 18:43 1996

PAGE 105

007

Honorable Orrin G. Hatch

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

When the White House recently returned to the FBI the 406 folders containing the FBI background summaries, two of the folders did contain "Tax Check Reports" from the IRS. The documents in question are memoranda from the Director of the Office of Disclosure, IRS, to William H. Kennedy, III, Associate Counsel to the President. These documents were never part of the FBI files on these individuals, but were apparently added to the folders by White House staff after receipt from the IRS. Both reports are for years 1989-1991, show no failure to pay taxes by the individuals named in the reports, and indicate there were no criminal tax investigations or civil penalties for those years. Executed waiver forms from the individuals named are attached to each IRS report.

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

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

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

Sincerely yours,

Howard M. Shapiro
Howard M. Shapiro
General Counsel

OAN BURTON

BYE OFFICE, INDIANAPOLIS

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INTERNATIONAL RELATIONSSUBCOMMITTEE:
WESTERN HEMISPHERE
CHAIRMAN

GOVERNMENT REFORM AND OVERSIGHT

SUBCOMMITTEE:
CIVIL SERVICE

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

June 21, 1996

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2411 RAVENHILL BUILDING
WASHINGTON, DC 20515-1406
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DISTRICT OFFICE:

6000 KEYSTONE AT THE CROSSING
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TELEPHONE: (317) 640-0201
TOLL-FREE: (800) 363-6020435 EAST MAIN STREET
SUITE 1-3GREENWOOD, IN 46142
TELEPHONE: (317) 892-1640
TOLL-FREE: (800) 678-3642

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

Dear Mr. President:

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

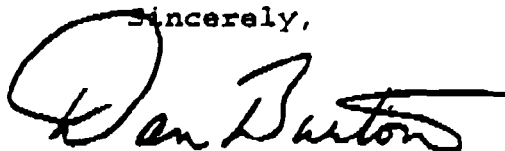
Did the White House request information from the IRS on Mr. Billy Dale or any of the other former White House Travel Office employees, or on any other White House employees who served in previous administrations? Did the White House obtain personal tax information on Mr. Dale or on anyone else from any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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Burton". The signature is fluid and cursive, with a large initial "D" and a long horizontal stroke at the end.

Dan Burton
Member of Congress

DB:jts

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

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SENATOR

MAJORITY - (205) 606-6001
MINORITY - (205) 606-6001

Jack Quinn, Esq.
Counsel to the President
1600 Pennsylvania Avenue, Northwest
Washington, DC 20515

Dear Mr. Quinn:

The following documents were not included in the White House production for review of Executive Privilege documents withheld from this Committee. These 205 pages of documents responsive to the Committee's January 11, 1996, subpoena were not listed on the May 23, 1996, White House privilege log.

DF 780030
DF 780050 - 780051
DF 780172 - 780187
DF 780623
DF 780641 - 780642
DF 780663 - 780678
DF 780690 - 780703
DF 780705 - 780706
DF 780827 - 780859
DF 780920
DF 781096 - 781098
DF 781110

DF 781356 - 781368
DF 781392 - 781453
DF 781509 - 781514
DF 781526 - 781527
DF 781532 - 781542
DF 781550 - 781557
DF 781818 - 781820
DF 781846 - 781851
DF 781883 - 781892
DF 781902
DF 781934

Draft Response
Attached
Andy

Please provide a production log with the copies of these documents to the Committee immediately.

Sincerely,

Bill Clinger
William F. Clinger, Jr.
Chairman

May 21, 1996

July 30, 1996 - Draft

BY TELECOPIER

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

Dear Chairman Clinger:

I am writing in response to your letter to Jack Quinn dated July 24, 1996 concerning documents that you believe were not included in the White House production for review of Executive Privilege documents. Most of these documents were in the production, although many were not in numerical order. A few documents were removed as duplicates; there was one numbering error. A detailed explanation, document-by-document, follows:

DF 780030	Same as DF 780183 (This document was identified in your letter of June 18, 1996 to Mrs. Collins as a document that you were prepared not to pursue in reaching an accommodation with the White House.) ¹
DF 780050-51	Duplicate of of 780048-49
DF 780172-80	Waived
DF 780181-87	Waived

¹ A copy of the June 18, 1996 letter is enclosed for reference. In this letter to Mrs. Collins, you offered not to pursue production of certain privileged documents, and the White House accepted this offer. These documents are hereinafter referred to as documents "waived." In the letter, you also identified certain documents that you were prepared to discuss further with the White House. All of these documents were collected and placed in a single folder at the back of the production set. They were all made available for the Committee staff to review. These documents are hereinafter referred to as documents in the "consideration folder."

DF 780623 Produced for review (The document is the back of a spiral notebook, so the page is dark.)

DF 780641-42 Waived

DF 780663-78 Consideration folder - produced for review

DF 780690 Consideration folder - produced for review

DF 780691-99 Waived

DF 780700 Waived

DF 780701-3 Consideration folder - produced for review

DF 780705-6 Consideration folder - produced for review

DF 780827-59 Duplicate of 780794

DF 780920 Consideration folder - produced for review

DF 781096-98 Waived

DF 781110 Waived

DF 781356-68 Waived

DF 781392-444 Consideration folder - produced for review

DF 781445-47 Waived

DF 781449 Congressional contact document pulled per agreement with Chairman

DF 781450-53 Consideration folder - produced for review

DF 781509-14 Consideration folder - produced for review

DF 781526-27 Duplicates [I think but am not absolutely sure - how should we handle?]

DF 781532-42 Waived

DF 781550-57 Consideration folder - produced for review

DF 781818 Duplicate of 780118

DF 781819-20 Duplicate of 781457-58

DF 781846-49 Duplicates of 781845 [I think]

DF 781850-51 Duplicate of 780204-5

DF 781883-92 Consideration folder - produced for review
DF 781902 Produced for review (in Bates Stamp order)
DF 781934 Numbering error on the log (The last page of the
document is 781933. There is no 781934.)

Sincerely yours,

Jane C. Sherburne
Special Counsel to the President

Enclosure

cc: Hon. Cardiss Collins (w/enclosure)

WILLIAM F. CLINGER, JR. PENNSYLVANIA
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ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

June 18, 1996

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INDEPENDENT

MAJORITY—(202) 225-6074
MINORITY—(202) 225-6081

The Honorable Cardiss Collins
Ranking Minority Member
Committee on Government Reform
and Oversight
House of Representatives
Washington, D.C. 20515

Dear Cardiss:

Thank you for your willingness to act as an intermediary in negotiations with the White House over the production of documents responsive to the Committee's January, 1996, subpoenas. As you know, on May 30, 1996, White House Counsel Jack Quinn claimed executive privilege over approximately 2,000 pages of Travel Office related documents, purportedly on the instruction of President Bill Clinton. At that time, Mr. Quinn produced a log of documents which were being withheld under that claim.

Let me point out that I was more than a little disappointed with the quality of the President's executive privilege claim. Historically, Presidents personally have signed a declaration of executive privilege whenever it has been invoked. Most recently, President George Bush claimed executive privilege on August 8, 1991, when former Government Operations Committee Chairman John Conyers, Jr., sought documents regarding the deferment of certain financial obligations of a major defense contractor. Likewise, President Ronald Reagan signed an instruction to Environmental Protection Agency Administrator Anne Burford on November 30, 1982, to declare executive privilege over documents relating to the enforcement of certain environmental laws. President Reagan's written assertion of privilege occurred less than three weeks after he established presidential guidelines with respect to how the White House would assert such a claim. I fail to understand why President Clinton, as a former constitutional law professor, has been so reluctant to personally stand behind a legal theory that his Administration specifically has adopted.

In addition, Mr. Quinn's privilege log is insufficient in detail. The privilege index provided by the White House is analogous to a "Vaughn index" that courts require from agencies claiming one or more privileges under the Freedom of Information Act. The purpose of a "Vaughn index," the courts have stated, "is to afford . . . a meaningful opportunity to contest, and the district court an adequate foundation to review the soundness of the withholding." *Wiener v. FBI*, 943 F.2d 972, 977 (9th Cir. 1991). Further, "specificity is the defining requirement of the 'Vaughn index.' Unless the agency discloses 'as much information as possible without thwarting the [claimed] exemption's purpose,

The Honorable Cardiss Collins
Page Three
June 18, 1996

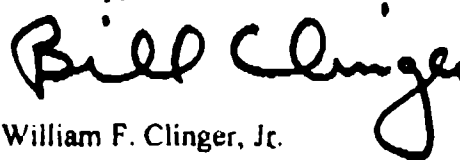
Given the recent disclosure that the White House sought the Federal Bureau of Investigation (FBI) background files for more than 400 former White House aides, including at least three fired Travel Office workers, the need for these documents appears obvious. As I told you in a letter on June 6, 1996, the practice of this White House to abuse the FBI "chills individual freedom in an open and free democracy." I further remind you that Mr. Quinn initially sought to protect the documents which revealed this abuse of the FBI by claiming executive privilege. Such actions cry out for intensive congressional oversight. We have also found at least two instances where known documents were not even listed on the privilege log. My arguments, and a summary of the over three years of efforts to reach a compromise on this matter, are more fully detailed in our Committee report.

Notwithstanding these deficiencies, I have sought to act in good faith and in a spirit of cooperation to review the limited information provided in the privilege log and identifying those documents which I am prepared to waive at this time. It is important that the White House understand, however, that the waiver of these documents is contingent on the White House producing all other documents included in the May 30, 1996 privilege log and certifying that no other documents remain outstanding.

I also received a letter from White House Counsel Jack Quinn on June 17, 1996 echoing your concerns over the deposition of current White House attorneys. As I stated to you recently, it would be my hope that we could proceed with the depositions, allowing the witnesses to make a claim of executive privilege to any question which they do not feel that they can answer. Those questions would be submitted to the witnesses by the Committee in writing and the President would be given the opportunity to formally invoke an executive privilege claim. I would be pleased to discuss this arrangement more fully with both you and Mr. Quinn in the context of our ongoing negotiations over withheld files.

Thank you again for your cooperation with this effort. Please contact me, or ask your staff to work with my General Counsel, Kevin Sabo, if you have any questions or concerns.

Sincerely,



William F. Clinger, Jr.
Chairman

Attachment

White House privilege log documents subject to Chairman Clinger's offer:

DF 780172-80 10/18/95 Natalie Williams
Analysis of potential hearing issues

DF 780181-87 Undated Natalie Williams
Analysis of potential hearing issues and issues to be
addressed in preparation for House GROC hearings.

DF 780215-18 8/3/95 Natalie Williams
Draft letter from Abner Mikva to William Clinger re:
custody of Foster Travel Office documents

DF 780641-42 8/3/95 Natalie Williams
Draft letter to Phil Larsen with handwritten edits re:
document protocols and productions.

DF 780691-99 9/26/95 Abner Mikva
Draft of privileged document log with handwritten notes
for House GROC and talking points for Committee
Members.

DF 780700 10/23/95 Abner Mikva
Draft of portion of memorandum to President on Travel
Office hearings

DF 781096-98 Undated Miriam Nemetz
Questions for Deborah Gorham developed in preparation
for Senate hearings re: Foster document handling matter

DF 781110 8/30/95
Memorandum re: preparation for possible assertions of
Executive Privilege

DF 781356-68 Undated
Notes analyzing vetting process of potential nominees
and vetting notes re: certain nominees

**White House privilege log documents subject to Chairman Clinger's offer
cont.**

DF 781445-47 10/23/95 Jane Sherburne to Abner Mikva
Analysis of issues related to upcoming House GROC
hearings with attached proposed talking points

DF 781532-42 Undated
Potential questions in preparation for the Senate and
House hearings

IC 1-2 7/5/94 - 1/4/96
Draft correspondence between the White House and OIC

IC 3-8 3/95, Undated
Material relating to responses to the OIC subpoenas

IC 9-28 3/95, 6/95
Material relating to the OIC interviews and grand jury
appearances

IC 29-33 3/95, Undated
Notes and memoranda relating to meetings with the OIC

IC 31-41 6/94 - 7/94
Material relating to OIC interviews and depositions of the
President and Mrs. Clinton

White House privilege log documents subject to Chairman Clinger's offer cont.

White House Privilege Log Attachment IV states that the White House is withholding an additional 32 pages of "Documents Reflecting Congressional Communications Otherwise Responsive to the January 11, 1996 Subpoenas."

[Note: Item numbers 1, 2 & 3 refer to notes and file memoranda concerning White House conversations with GROC Majority **STAFF** only and should be produced.]

No Bates-stamp numbers No date provided No author designated
5. Memorandum summarizing conversations with Democratic Members of GROC

No Bates stamp numbers No date provided No author designated
4. Notes of meetings and telephone conversations between White House staff and Democratic congressional staff members

No Bates-stamp numbers No date provided No author designated
6. Facsimiles to and from Democratic congressional staff and White House staff.

White House Privilege Log Attachment V lists an additional 50 pages withheld by the White House as "Documents Reflecting Communications with the Office of Independent Counsel Otherwise Responsive to the January 11, 1996 Subpoenas."

[Note: We do not know if this list contains the same documents listed on the Executive Privilege log with the IC numbers or not.]

No Bates-stamp numbers July/94 - January/96 No authors designated
Correspondence between the White House Counsel's Office and the OIC dated from July 1994 through January 1996.

**White House privilege log documents subject to Chairman Clinger's offer
cont.**

No Bates-stamp numbers March/95 - Jan./96 No authors designated
OIC subpoenas and related transmittal letters dated from
March 1995 through January 1996 maintained by the
Counsel's Office.

**Withheld documents that the Chairman is willing to consider further
discussion concerning the manner of production:**

DF 780238- ³⁹ 38	
DF 780705-06	Undated Natalie Williams Analysis of document productions for Chairman Clinger meeting
DF 780663-78	9/5/95 Draft of privilege document log for House GROC with handwritten notations analyzing the basis of privilege determinations.
DF 780701-03	12/7/95 Analysis of document production issues for 12/8/95 Chairman Clinger meeting
DF 780920	Undated Miriam Nemetz Attorney notes regarding strategy for Congressional hearings
DF 781392-407	Undated
DF 781450-53	Analysis of Travel Office matter and document
DF 781883-92	production/privilege issues in preparation for meetings

Withheld documents that the Chairman is willing to consider further discussion concerning the manner of production:

with House GROC Chairman and staff

- DF 781408-44 Undated Vince Foster
Handwritten notes found in Vince Foster's briefcase concerning Executive Orders under consideration and vetting notes
- DF 781509-14 9/18/95
Attorney annotations on letter from Chairman Clinger re: requested documents
- DF 781550-57 Undated
Memoranda re: Travel Office issues in preparation for House GROC hearings
- DF 781571-784 Undated
Briefing book prepared for Senate hearings including analyses of witnesses' knowledge of Foster document handling matter
- DF 781785-817 Undated
Briefing book containing issue analyses and possible questions prepared for House GROC hearings