

WHOMA [White House Office of Management and Administration] to begin this process.²⁶⁸

In his deposition, Marceca testified that he did not know what a Secret Service WAVES list was, nor did he know what a temporary pass holder or permanent pass holder list was.²⁶⁹ The Secret Service would provide the Office of Personnel Security with an updated passholders list on a monthly basis or upon request.²⁷⁰ When asked whether he had ever seen Secret Service lists which were separated by office, Marceca testified that he did not think that he had gotten any lists which were broken down by office until January 1994.²⁷¹ Nancy Gemmell stated that when she left the office in August 1993 she went to the Secret Service, and requested a current master Secret Service list separated by office.²⁷² This is the list which Gemmell left in the office with the understanding that an additional list should be requested:

Ms. GEMMELL. I was very much understood that the initial list the office had was just that, an initial list to be used to start the first steps of the Update Project. It was very well-known that many personnel decisions had yet to be made and therefore that follow-up would have to be done.

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Mrs. COLLINS OF ILLINOIS. So then during the regular update projects in which you were involved, how often would you request a list of names from the Secret Service?

Ms. GEMMELL. Basically, only twice, ma'am. At the beginning to initiate the process, and then the second time to be used as the file copy.

Mrs. COLLINS OF ILLINOIS. Did you leave behind any Secret Service lists of names that you had requested for the Update Project when you left in August of 1993?

Ms. GEMMELL. The list that was received from the Secret Service was left behind. It was still in process; far from being completed; correct.²⁷³

Mr. Marceca testified that the only regular Secret Service lists which he knew of were weekly pass lists which he received from the Secret Service and used to complete his project. He stated that these lists contained only a small number of people who were on the access lists and needed to be contacted to fill out an SF-86.²⁷⁴

The Secret Service did not provide the office with "access lists" in the manner that Marceca used the term. The Secret Service lists are quite distinctive, as the paper is oversize, on green and white computer printout paper with perforated edges. The access lists to which Marceca refers are created by the Office of Personnel Security based on names provided by the Office of Management and Ad-

²⁶⁸ White House document CGE 053677. Although the memorandum is undated, the information contained within clearly indicates that it was created in March 1993.

²⁶⁹ *Id.*, pp. 94-95.

²⁷⁰ Wetzi deposition, p. 33.

²⁷¹ Marceca deposition, p. 98.

²⁷² Telephonic interview of Nancy Gemmell.

²⁷³ *Security of FBI Files* hearing, June 19, 1996, pp. 50-51.

²⁷⁴ *Id.*, p. 94.

ministration.²⁷⁵ In hearing testimony however, Marceca, stated specifically that he recalled working with the large, green and white computer printout lists.²⁷⁶ Contrary to his statement, in his own notes Marceca writes, "Mr. David Watkins, head of management and administration . . . monthly report submitted on passes."²⁷⁷

Lisa Wetzl, a staff assistant in OPS, testified that when Marceca arrived he took over her duties of helping to correct and submit to the FBI the SF-86 for new employees.²⁷⁸ Ms. Wetzl explained that both she and Nancy Gemmell went through the process with him to make sure that he understood it.²⁷⁹

The duties which Marceca was to perform in OPS were rather amorphous. Mr. Marceca testified that, "I would work in the Office of Personnel Security doing updates of White House staff and visitors, people that had access."²⁸⁰ Mr. Marceca testified that Livingstone was his supervisor;²⁸¹ however, Livingstone testified that he did not supervise Marceca. With regard to the Update Project, Livingstone testified, "I didn't supervise this project."²⁸² Mr. Livingstone stated, "I don't believe that there was anything specific that Tony would have been required to talk to me specifically about. Certainly not in the form of projects."²⁸³ According to Livingstone, nobody in the office was reporting to him on the activities of Marceca.²⁸⁴ It appears from Livingstone's statements that Marceca had free reign to do whatever he wanted without consultation with actual staff.

Mr. Marceca, however, testified that he was assigned the Update Project by Livingstone.²⁸⁵ Livingstone, the Director of the office, has no clear recall as to who was assigned the project, who was working on the project at any given time, or who was supervising the project.²⁸⁶ Ultimately, Livingstone was in charge of all activities in that office, and Marceca was the individual assigned to work on the Update Project.

D. MARCECA BEGINS THE UPDATE PROJECT

1. Introduction

As discussed previously, when a new administration arrives at the White House, nearly all of the previous administration's records are removed for storage in the Presidential archives.²⁸⁷

²⁷⁵ Denbo interview, September 4, 1996, p. 9.

²⁷⁶ Marceca deposition, p. 40.

²⁷⁷ Marceca document production (unnumbered). Handwritten notes dated August 9, 1993.

²⁷⁸ Wetzl deposition, pp. 20-21. (A.B. Culvahouse, Counsel to President Reagan, testified before the committee that during his tenure only the White House Counsel, his Deputy and the Director of the Security Office were authorized to review the SF-86 forms. *Security of FBI Files* hearing, June 19, 1996 p. 46.)

²⁷⁹ *Id.*, p. 21.

²⁸⁰ Marceca deposition, p. 59.

²⁸¹ *Id.*

²⁸² Livingstone deposition, p. 33.

²⁸³ *Id.*, p. 37.

²⁸⁴ *Id.*, p. 39.

²⁸⁵ Marceca deposition, June 18, 1996, p. 59.

²⁸⁶ Livingstone deposition, June 17, 1996, p. 33. (When asked who supervised the project Livingstone stated, "I believe Ms. Gemmell, Ms. Anderson, Ms. Wetzl and Mr. Marceca." Ms. Gemmell had started the very first stages of the project before she retired. Ms. Wetzl began working on the project after she was promoted to Executive Assistant in late 1994, when she felt that she had enough authority to do so. See Wetzl deposition, p. 66. Ms. Anderson apparently never worked on the project at all.)

²⁸⁷ Prepared written statement of C. Boyden Gray, p. 6.

Those records would include the background investigations and paperwork which are stored in the Security Office. Therefore the records for all holdover employees must be recreated by ordering the background investigations from the FBI.

Marceca's task was to recreate these files, and he would spend some time each week working on the Update Project. The process to determine which files to order is simple. The Secret Service has lists of all current passholders which it provides to OPS. The Secret Service lists can be printed out in different formats, one of which is current passholders by office. Previous administrations would go down the lists office-by-office to determine who the holdovers were in each office. The staff would start with those offices which routinely would have the largest amount of holdovers, such as the General Services Administration and White House contractors. The White House Office would normally be saved for last as it would have the greatest turnover with the least amount of holdovers. (The White House Office includes those offices with mostly political appointees such as the Chief of Staff and Communications.)²⁸⁸ After determining who the holdovers were, the office would order those FBI background investigations.

Before leaving the White House, Nancy Gemmell had begun the very first stages of the Update Project:

Mr. SCHIFF. Can you describe what the Update Project that you were working on until August 13th was?

Ms. GEMMELL. Basically, again, sir, it was just simply setting up the very first stages of it, and basically, that means that you were making dummy files; in other words, file jackets that would be used down the road. So therefore you were typing file labels, you were typing subject files. As an example, if you were processing the General Services Administration employees, you would type a subject file for that group also.

Mr. SCHIFF. Did you have a way of dividing up the Secret Service files—that is, GSA group or White House group there or something like that?

Ms. GEMMELL. As I recall the list, sir, the list of employees was by category; in other words, was by office.²⁸⁹

At the time Marceca started in OPS Nancy Gemmell had already retired. Ms. Gemmell testified that she did not know whether Marceca used the list she had left behind, nor did she know who would be assuming the responsibility for the Update Project.²⁹⁰

2. Marceca's understanding of the Secret Service lists

Mr. Marceca stated that as part of the Update Project he was to refer to a list and open files on individuals who had access to the White House.²⁹¹ He explained that his mission was to open a file on each individual on the list and then request a previous background investigation from the FBI.²⁹² When asked whether Nancy

²⁸⁸ *Id.*

²⁸⁹ *Security of FBI Files* hearing, June 19, 1996, pp. 90-91.

²⁹⁰ *Security of FBI Files* hearing, June 19, 1996, p. 90.

²⁹¹ Marceca deposition, p. 61.

²⁹² *Id.*, p. 62.

Gemmell had ever instructed him to determine the accuracy of the status of the names on the list, Marceca answered:

My project was to establish—was establish a file that would perform a check to find out if these folks were still on staff or not on staff . . . The list that I was provided was a list to my understanding that everybody on that list had access.²⁹³

Mr. Marceca's answer is puzzling. In the first sentence, he states that he was to determine who remained on the White House staff; he then states that everyone on the list had access. Mr. Marceca claims to have worked from the same list throughout the Update Project²⁹⁴ and had discovered that certain individuals on that list were no longer granted access to the White House complex.²⁹⁵ Mr. Marceca's statements appear contradictory. It is unclear what Marceca actually knew about the Secret Service lists. We do know from his own handwritten notes that, in the course of processing the individual files, he would place all files of White House Office staff in orange folders, all Vice-Presidential Office staff in pink folders, all volunteer and intern files in red folders and all support staff (GSA) in blue folders.²⁹⁶

The master Secret Service list includes a combination of active and inactive passholders. The passholder names on the list, however, are clearly differentiated by "A" or "I," meaning active or inactive. According to the Secret Service, the only list which Marceca could have used to request all 476 of the names would be the master list.²⁹⁷ Mr. Marceca testified that he was under the impression that the "A" and "I" designation on the Secret Service lists stood for "access" and "intern."²⁹⁸ The list Marceca used also contains the date of birth on each passholder.²⁹⁹ If one were to accept Marceca's testimony regarding his belief that the letters stood for "access" and "intern," then it follows that Marceca also believed that he was ordering background files on holdover interns who were 30 to 70 years old, and who had interned during Reagan and Bush administrations.

Contrary to his already incredible testimony, the request forms Marceca sent to the FBI on these "interns," as in the case of Billy Dale, identified them not as interns, but as staff members.

3. Marceca's explanation of the Update Project

In a hearing before the committee, Marceca again clarified the procedures he employed in doing the Update Project. He stated in the hearing that he worked from a "set of computer lists" which were kept in the vault of OPS.³⁰⁰ He added that he attempted to go through the names on the list in the order in which they ap-

²⁹³ *Id.*, p. 66. (Later in the deposition Marceca is asked whether there came a time when he discovered that there were people who were not properly on those lists. Marceca answered, "Not to my knowledge, [to] the time I left, no." Marceca deposition, p. 73.)

²⁹⁴ *Id.*, p. 98.

²⁹⁵ *Id.*, p. 100.

²⁹⁶ Marceca document production. (Unnumbered.) Handwritten notes dated August 9, 1993.

²⁹⁷ See *infra* Section VII, for further clarification of the Secret Service lists.

²⁹⁸ Marceca deposition, June 18, 1996 p. 67.

²⁹⁹ *Security of FBI Files* hearing, June 26, 1996, p. 41.

³⁰⁰ *Security of FBI Files* hearing, June 26, 1996, p. 39. Mr. Marceca's hearing testimony is contrary to his deposition testimony in which he stated that he used only one list for the Update Project. Marceca deposition, p. 61.

peared.³⁰¹ For each name on the list he would prepare a file folder and type the request on a preprinted form addressed to the FBI Liaison requesting a "copy of previous report."³⁰² On those forms is a space for the purpose of the request. In that space, Marceca typed "ACCESS (S)."³⁰³ That denoted that the individual named on the form was requesting access to the White House. The "S" was an internal OPS designation for White House staff.³⁰⁴

After receiving the previous report from the FBI, Marceca stated that he would review it to determine the suitability of the person for a position in the Clinton administration, and to check the date for the standard 5 year reinvestigation.³⁰⁵ In the process of determining the date of reinvestigation, Marceca claimed he would discover that many individuals were no longer employed by the White House.³⁰⁶ Once Marceca began receiving a number of files for individuals no longer working at the White House and not seeking access to the White House, he created a "dead bin" where he would put all of those files.³⁰⁷

Mr. Marceca also testified at the hearing about the "set" of lists which he worked from while he performed the Update Project. He described the list as being on green and white computer paper, approximately 8 inches wide which was folded over and had connecting pages.³⁰⁸ The list he worked off of was approximately an inch thick with the names of the individuals in the left hand column.³⁰⁹ During the hearing, Marceca recalled that the list was divided into subgroups according to office, which is contrary to his deposition testimony.³¹⁰

Mr. Marceca told the committee that he was told by Livingstone, and possibly others in the office, to work off of the list he had been using.³¹¹ Mr. Livingstone and Lisa Wetzl have both stated that they do not know which list Marceca was using for the Update Project. Nancy Gemmell has testified that she did not even know who would be working on the Update Project, therefore she did not give anyone a Secret Service list to use for the Update Project. In fact, she testified that she instructed the individuals working in the office that they would have to request an updated Secret Service list to complete the project.³¹²

Although Marceca stated in his deposition that he never knew that there might be any problems with the list he was using, he later stated in the committee hearing that he realized there were problems, causing him to change his method of updating the files:

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*, p. 41.

³⁰⁵ *Id.*, p. 39. This is the same task which, in previous administrations, only the counsel, deputy counsel and the director of the Security Office were authorized to conduct.

³⁰⁶ *Id.*, p. 40.

³⁰⁷ *Id.* The "dead bin" was a bin located in the vault which was empty at the time Marceca began his detail.

³⁰⁸ *Id.*, p. 40.

³⁰⁹ *Id.*

³¹⁰ *Id.*, p. 41. In his deposition testimony Marceca stated that he did not see any lists which were divided by office until January.

³¹¹ *Id.*, p. 106.

³¹² *Security of FBI Files* hearing, June 19, 1996, p. 50. Ms. Gemmell testified, "It was very much understood that the initial list the office had was just that, an initial list to be used to start the first steps of the Update Project. It was very well-known that many personnel decisions had yet to be made and therefore that follow-up would have to be done."

Mr. FLANAGAN. You understood [the list] was current, and it turns out it wasn't. Was it fair to say it was an updated list?

Mr. MARCECA. No, sir. It is fair to say that I believed the list was current when I had that list. Later on it developed that there were people that had left the White House, when I started that project they had no reason to believe that list was outdated or that those people did not have access to the White House.

* * * * *

Mr. MARCECA. I believe I worked on that list until I discovered, and it was not a sudden discovery, but somewhere after a couple of months—well, it is being pointed out it was always the same list. When I discovered that there were problems with that list, I then changed my approach to updating.³¹³

There is no evidence to suggest that Marceca changed his approach to the Update Project. In fact, when asked why he stopped at "G-o" on the list, Marceca testified that was as far as he had gotten on the list.³¹⁴

Mr. Marceca explained his two goals as he proceeded down the list. First, he wished to determine that the individual was still at the White House, and second was to ensure that he "didn't prevent them from coming into the White House in case of an emergency."³¹⁵ His actions, however, contra ict his stated goals. Mr. Marceca did not check whether an individual on the list was currently employed by the White House before ordering his file, otherwise he would not have received the files of over 400 individuals not currently employed by the White House. It is not clear what emergency he referred to when explaining his second goal. He did not have the ability to prevent a current passholder from entering the White House compound by conducting the Update Project. The only way to accomplish that would be to notify the Secret Service to deactivate the individual's pass.

In his deposition before the committee, Marceca described two different procedures which he used for recreating the FBI background files of holdover employees. He first explained that he would work from the SF-86 form and then check the "update list" to determine if the name on the SF-86 were also on the list.

Answer. The very first thing I had to do was [take the SF-86] go into the vault, pull out this list that was in the vault, and check to see if the name was on the list. Which means, that if it was on the list, then they were former White House staffers. If their name was on the list, I would put a check beside their name . . . If they were not on the list, I would just continue on. . . . This is the update list in the safe.³¹⁶

³¹³*Id.*, pp. 284-286. (In his deposition testimony Marceca directly contradicts this statement, when asked whether there came a time when he discovered that there were people who were not properly on those lists. Marceca answered, "Not to my knowledge, [to] the time I left, no." Marceca deposition, p. 73.)

³¹⁴*Id.*, p. 194.

³¹⁵*Id.*, pp. 193-94.

³¹⁶*Security of FBI Files* hearing, June 19, 1996, pp. 83-84.