

## DECLARATION OF NANCY A. GEMMELL

I, Nancy A. Gemmell, for my declaration pursuant to 28 U.S.C. § 1746, depose and say as follows:

1. Unless otherwise indicated, the statements contained in this declaration are based on my personal knowledge.

2. I was employed by the United States government from 1968 until I retired on August 13, 1993.

3. I worked at the White House during most of my tenure as a federal employee. I began working in the White House in 1969 in a secretarial position. In 1981, I transferred to the White House Office of Personnel Security ("OPS") (then known as the White House Security Office), an arm of the White House Counsel's Office. I remained at OPS until my retirement.

4. In 1993, I remained with OPS during the transition from the Bush to Clinton administrations, with the intention to retire in late spring, 1993. Soon into the new administration, I was the only remaining OPS employee who was generally knowledgeable of the duties and procedures of the office. The other OPS employees, all of whom were hired by the incoming Clinton administration, relied heavily upon me for information and direction.

5. Due to these circumstances, Craig Livingstone, the new director of OPS, requested that I postpone my retirement to help ensure that the office was properly functioning and that new personnel were properly trained before I left. I agreed to delay my retirement for approximately two months. Even with the delay, however, it was extremely difficult in the time available to fully train the new staff and to attend to the many functions of the office during the transition period. This problem was compounded by the fact that the size of the OPS staff was substantially reduced

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early in the Clinton administration, and OPS was required to rely heavily upon volunteers and interns to perform the many time-consuming administrative functions of the office.

6. One of the functions of OPS was to maintain security files on most persons requiring routine access to the White House complex. Sometime in the spring of 1993, in the course of my efforts to ensure that all of the required operations of OPS during the transition period were at least in progress before I left, I informed Mr. Livingstone of the need to conduct a project to recreate the security files of the "holdover" employees, detailees and others from the Bush administration who required continuing access to the White House complex. This task was known within OPS as the "Update Project."

7. I had previously worked on update projects conducted in 1981, during the transition from the Carter to Reagan administrations, and in 1989, during the transition from the Reagan to Bush administrations.

8. It is necessary to conduct an update project in the White House during each change of administration because the Presidential Records Act provides for the removal of most records from the White House at the conclusion of each administration. Among the many records routinely removed from the White House pursuant to the Presidential Records Act are the security files maintained by OPS, including the files of those persons requiring continuing access to the White House complex in the new administration.

9. The security files maintained by OPS include summary reports provided by the Federal Bureau of Investigation ("FBI") of full field background investigations that the FBI conducts of most persons requiring routine access to the White House complex. Those reports are used to determine suitability for White House access.

10. The process of recreating the files on persons requiring continuing White House access after each change of administration involves requesting from the FBI copies of summary reports previously provided concerning those persons. OPS accomplished this task after each change of administration by filling out pre-printed forms, under the name of the Counsel to the President, which requested copies of "previous reports" on the individuals named in the forms. The request forms were routinely forwarded to the FBI without review by the White House Counsel's Office or anyone outside OPS. Previous reports were returned by the FBI directly to OPS in sealed envelopes carried by FBI courier.

11. The recreation of the files on persons requiring continuing access to the White House complex was necessary primarily for two reasons. First, all persons with routine access to the White House must be reinvestigated every five years. It was necessary to recreate the files on holdovers from the prior administration to determine when their reinvestigations were due. Second, after each change of administration during my tenure at OPS, the summary reports obtained from the FBI on holdovers from the prior administration were routinely reviewed by OPS upon receipt if time and work pressures permitted to determine if the reports contained any information potentially affecting their suitability for White House access that should be brought to the attention of the new administration through the White House Counsel's Office.

12. After I informed Mr. Livingstone of the need for the Update Project, he requested that I commence the project and that I generally explain the procedures necessary to complete the project to Mari Anderson, Mr. Livingstone's executive assistant.

13. Soon thereafter I made preparations for commencing the Update Project by requesting from the Secret Service a customized list of all active passholders to the White House

complex in order to identify those persons requiring routine access. The list was computer-generated on green and white paper and was organized based upon the various federal agencies with employees assigned to the White House complex, including White House Operations, the White House Residence, the FBI, the Central Intelligence Agency ("CIA"), the National Security Council ("NSC"), the General Services Administration ("GSA"), the National Park Service ("NPS"), the Reporting Agency ("RA"), and Other Government Agencies. The list also contained non-governmental entities with employees and others requiring routine access to the White House complex, including American Telephone & Telegraph ("AT&T"), the Chesapeake and Potomac Telephone Company ("C&P"), and Miscellaneous Non-Government Agencies. The passholders were listed in alphabetical order under their employing entity or other applicable category.

14. The customized list contained particular information on each person listed as needed to obtain previous reports from the FBI. The information included the full names of each passholder, their dates of birth, the city and state in which they were born, and their social security numbers.

15. The list also included the pass-type held by each person. That information was needed to identify those persons who only held temporary passes to the White House complex because such persons were often new employees whose full field background investigations were in progress but had not been completed by the FBI or were employed for short periods at the White House complex not requiring a full field background investigation. In either event, a request for a prior report generally would not have been submitted by OPS to the FBI on such persons in conducting the Update Project.

16. I believe that a true copy of a portion of the list that I obtained from the Secret

Service to conduct the Update Project is attached hereto as exhibit A. The attached list appears to be same list except that it is missing those persons whose last names begin with A to Po in the segment of the list devoted to employees of White House Operations, and it is my understanding that the date of birth, place of birth and social security numbers of the listed passholders were redacted from the copy for privacy purposes.

17. My belief that the attached list is a portion of the list that I obtained to conduct the Update Project is based primarily upon the fact that it appears to be a Secret Service list that is organized in the identical fashion and contains all of the same information that was in the list provided to me by the Secret Service to conduct the Update Project.

18. Also, the date that the attached list was generated, which is stated on the list as "06/10/93," is consistent with my memory of the general time period in which I obtained the list from the Secret Service to commence preparations for the Update Project.

19. A third factor that indicates to me that the attached list is a portion of the same list that I obtained to conduct the Update Project concerns a handwritten notation on page one of the segment of the list concerning employees of the National Security Council. The notation states: "Lables [sic] completed 7/2/93." Although I cannot identify the handwriting of the person who made the notation, it has significance to me in relation to the Update Project because one of the first administrative functions to be performed in conducting the Update Project after obtaining the required Secret Service list was to produce<sup>ed</sup> file-folders in anticipation of requesting previous reports from the FBI. Color-coded labels were produced and attached to each file-folder before requests for previous reports were forwarded to the FBI. The handwritten reference to the completion of labels on the attached list likely refers to the color-coded file-folder labels

produced for the Update Project.

20. As previously stated, I requested that the Secret Service generate a list of active passholders for purposes of conducting the Update Project. It is my understanding that the Secret Service has determined that the attached list is a much broader compilation of both persons who were active passholders at the time and persons who had previously held passes that had been inactivated within eight years of June 10, 1993. If, as I believe, the attached list is a portion of the same list I received from the Secret Service for the Update Project, I would have assumed that the list only included active passholders because I requested an active passholder list and the attached list does not state that any of the persons included were inactive passholders. Also, the attached list expressly identifies the exact pass-type held by each person included on the list, including even temporary pass designations, which I would have construed as a clear indication that the list was comprised of active passholders.

21. My approach to the Update Project after obtaining the Secret Service list and producing the necessary file-folders with the assistance of OPS staff members, interns and volunteers, was to start the project by requesting previous reports from the FBI as to individuals employed by agencies that I knew to have little, if any, turnover due to the change of administrations. That included federal agencies with employees assigned to the White House, such as GSA, NPS, RA, FBI, and CIA, and non-governmental entities, such as AT&T and C&P.

22. My purpose in proceeding first through the non-political agencies in conducting the Update Project related to my knowledge of the dilemma faced by the Secret Service and OPS in maintaining current passholder lists during transition periods. Based upon my long experience in OPS, I was aware that during transition periods in the White House, when large numbers of