

because it was a transition from one administration to the other, 280 people went inactive from December 31st, 1992 backwards. And then that number grows as we move into 1993.

Q Okay.

A Now, outside, to speak outside of the July 8th, 1993 time period, because the name comes up, James Baker, let me speak for a moment as to the process of how the names -- how the people are added to the active list and taken off the active list and made inactive.

The names come to us from the administration. They determine who they want to be granted a pass into the White House complex. They will submit the name to us along with a background investigation. We review the investigation solely upon looking for protective concerns. Our only concern is would somebody pose a threat to any of our protective concerns.

BY MS. COMSTOCK:

Q And do you actually get the summary background files then, the files that were turned over to the White House?

A Yes, the summary, yes. We review it. If we have no concerns, we sign off on the file, the individual is issued a pass, and at that point in time the information goes into the E-PASS system, and they become active passholders.

When somebody leaves, to deactivate somebody, again, this is done at the behest of the administration, whichever administration it is. They will tell us in one of two ways. The individual himself, the passholder his or herself, will come to our office, say, I'm leaving, will turn in their pass, at which time we will deactivate them. Or they could just leave, and we will not find out until somebody from the administration -- typically it has been the Office of Personnel Security -- will tell us, oh, so and so has left 2 months ago or even 3 months ago. Please deactivate their passes. And so again, at that point in time they are deactivated.

So we are -- we really serve the administration. We issue building passes to allow people into the complex based upon who they want in and who they want to exclude.

Q And usually is there a checkout procedure when people do leave the White House, or had there been maybe in the prior administration, was there a checkout procedure that people went through?

A There is a checkout procedure in place with this administration. I cannot speak to prior administrations because I didn't come until 1994.

Q And the current checkout procedure, was that in place in 1993?

A No, it wasn't. I know it became more formalized in 1994. I can't tell you

exactly, really; I can't speak specifically to what occurred in 1993 because I wasn't there.

But now, to speak to Mr. Baker. Mr. Baker, Mr. Fitzwater, and two other individuals, we were not requested to deactivate them until August of 1993. So legitimately, because the administration hadn't told us, and I know it sounds a little funny, because everybody would imagine that Mr. Baker would have left with the previous administration, but we are not to be so presumptuous to think that he is not going to stay around to help out with the transition. That is not for us to determine. So legitimately he was listed as an active passholder on this July 8th printout, because up until that point in time, we weren't requested to remove him from the rolls of active passholders.

Now, in August of 1993, we were requested to remove Mr. Baker and Mr. Fitzwater, two other individuals, I can't recall their names, from the list of active passholders.

Q Okay. Now, the list that we have been referring to as Exhibit 1, Mr. Fitzwater does show being inactive January 20th, 1993.

A That date is incorrect.

Q Okay.

A In fact, I have been over this list 100 times. I was told that these -- the dates on this list that you have, we were given a day to come up with the dates, and so there are errors on that. In the -- over the last month we have had time to go through and through and through and, you know, do a very, very thorough audit.

Q So these numbers that we are looking at on the charts are based on you --

A These numbers are accurate.

Q Okay.

A And when I am finished with my report to submit to the Senate, it has all of the dates on it, and those dates are 100 percent accurate. These, I found a few errors in those dates. So I wouldn't use that for definitive purposes.

But in August of 1993, we were asked to take Mr. Baker from the rolls. We did. He was listed as inactive in the E-PASS system, and he, just like the other eight individuals I had mentioned -- that information was lost in the transfer between the E-PASS system and the WAVES system, so he was carried as an active passholder erroneously into 1994.

In fact, I think it was February or March, it was early in 1994, it was a conversation between Mr. Livingstone and myself where what we do, we provide them with a printout of active passholders, and the reason we

provide them with the printout is so that they can go through it and reconcile their records with our records, because as I had stated previously, we put information in at their request, we take information out at their request. Consequently, we give them our records so that they can go through them and verify that everything is correct.

With Mr. Baker, he noticed, he said, hey, Mr. Baker left some months ago, how come he is still here? I informed him it was a problem that I was aware of since I had come to this Division in 1994, we were working on a correction to the problem, and I went in and the problem was corrected eventually, and Mr. Baker was deleted from the rolls.

It is also important to note, though, that he was listed as an active passholder in the WAVES system, and that passholder database in the WAVES system is for our purposes. It is an administrative file. The critical function of the system as a totality is comprised of three computer systems, an access control system, the E-PASS system, and the WAVES system. The critical function is performed by the access control system, and that operates 100 percent. He was immediately deactivated, so that if Mr. Baker would have shown up at the gate with this pass and tried to come in, it wouldn't let him in.

Q So after August 26, 1993, he could not have gotten into the building?

A He could not have gotten in.

So I think from our perspective, that is an important point to stress, that the printout in WAVES, the database that we keep in WAVES, is there for administrative purposes. We print it out from WAVES because WAVES has high-speed printing capabilities, and so we simply utilize the WAVES system to generate these printouts. And again, we give them to the administration for them to go through and find any errors.

That is the whole purpose. We traditionally give them printouts, some printouts every Monday, some printouts once a month, but so that they can go through them and make sure that the information is accurate. It is a real cooperative effort. It has always been a cooperative effort between the Office of Personnel Security and the White House Division.

Can I answer any questions?

Q Yes. Maybe if we can go into a few areas. In 1993 when the new administration started -- when did you start in this position?

A January of 1994.

Q And what were you doing prior to that?

A Prior to that I was assigned to our Technical Security Division.

Q Is that at the White House also?

A No, it was not.

Q All right. So you are not familiar then with any meetings in 1993 with Mr. Livingstone?

A No, I am not, no.

Q In 1994, were you aware of there being a large number of new White House employees who hadn't gotten their White House passes?

A Yes, I was.

Q Were you involved in any discussions regarding that?

A Not -- no, not directly.

Q Okay. And how did you become aware of it?

A Well, I worked in the White House Division. One of my jobs was to review backgrounds. And you couldn't help but know it, because it was in the newspaper. I am not being facetious, I didn't learn it from the newspaper, but simply by being in the office, one knew that this was an issue. The particulars of the issue I was not aware of.

Q You yourself reviewed the FBI files when they came over completed from the Counsel's Office?

A Yes.

Q And you would review them for security concerns?

A Yes, I did.

Q And after you reviewed them, who would you then pass them on to?

A I would sign off for them for the special agent in charge of the Division, and if there was -- if it was a routine background, there were no concerns whatsoever, they would go from me up to the front office, where the individual would be informed that they could come in and receive their pass.

Q In the front office, who would it go to in the front office?

A To our administrative personnel in the White House Division.

Q Who is in charge of that?

A In charge of the office is Arnold Cole.

Q When you had received those files, who had signed off on them on behalf of the Counsel's Office?

A Typically it was Greg Livingstone. Well, the pass request came from Greg's office, he signed off on it.

Q Was there a particular request form where he would --

A It was a standard request: Attached is a background investigation of so-and-so. We request that this type of a pass be issued.

Q Okay. So they would -- you would get White House employee X's file that says -- Greg had a memo on it saying, please provide a permanent pass for this employee?

A Yes.

Q And then attached would be that person's FBI summaries, the FBI summaries on them?

A Yes.

Q Would it have any financial information or any other information besides the FBI background?

A Typically, no.

Q And you would then review it for security concerns?

A Yes.

Q And if there were any problems, who would you raise those with?

A If there were problems, if it was anything more than routine, then I would pass it on to my supervisor, Assistant Special Agent in Charge Arnold Cole.

Q Generally with the files that you reviewed, do you recall there being problems with individuals who hadn't paid their taxes? I am not asking for any names here, I am just saying generally if files that had been passed on to you where there were situations that people hadn't paid their taxes.

Mr. Goldberg. Exclusion of congressional proceedings I don't believe apply to this particular provision, and the Privacy Act, I think, would cover. I would be wary of how you would answer questions.

Mr. Clancy. Well, I think that the Privacy Act goes to individuals, it doesn't go to groups at all, and I would advise the witness here not to answer anything about individuals. But the Privacy Act has nothing to do with groups, from my understanding. Do you have a different understanding?

Mr. Goldberg. I don't have a different understanding, but if information could be put together with that answer in identifying somebody, I think there could be a problem.

Mr. Clancy. I agree that we should be careful that the information come out not to identify an individual, but just a situation.

Ms. Comstock. Also, I think this is a copy of the Privacy Act here, which I believe doesn't apply to --

Mr. Goldberg. I think if you read it closely, it doesn't mention staff depositions. It is congressional hearings within the jurisdiction of the committee. I think the committee can get around this in a different setting than this.

Ms. Olson. I am going to speak on the record since this is going to come up again. I would ask that Mr. Goldberg make a complete record of his understanding if the Privacy Act does apply in this deposition, and let's get it very clear on the record because we are going to deal with this for the next 30 days.

Mr. Goldberg. Would you like me to make a statement about that now?

Ms. Olson. Yes.

Mr. Goldberg. I would say that I believe that there are two questions that would relate to the Privacy Act. One, is this a congressional hearing under terms of the Privacy Act that would be excluded under the general exclusion of the Privacy Act. Second would be, is the question being asked within the scope of H.R. 369 which authorizes this deposition.

I think both are very relevant to the issue, and I think you could raise significant questions about both that would lead perhaps someone to conclude the Privacy Act protections and criminal protections specifically would apply. I can't give you a definitive answer.

Ms. Olson. Okay. We have reviewed the Privacy Act. Our committee counsel, Kevin Sabo, has reviewed the Privacy Act, and the Chairman is signing a statement which will be made a part of this record and shared with Minority counsel. This deposition started before the statement was complete.

The Privacy Act that I am quoting from is from Title V, Section 552(a), Subsection B, which says that there are conditions of disclosure and, quote, "no agencies shall disclose any record which is contained in a system of records."

Then I am skipping several sentences, and it says, unless disclosure of the record would be -- and if one goes down to Subsection 9 -- to either House of Congress or to the extent of a matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.

My understanding through communications with our committee counsel is that we are a subcommittee of the House of Congress, we are staff on