

House Counsel or his deputy.<sup>53</sup> This position was described by a former White House Counsel as "a largely thankless job, requiring long hours, superb organizational skills, attention to detail, and total discretion."<sup>54</sup>

Beginning in 1972, during the Nixon administration, Jane Dannenhauer was appointed as the Assistant to the Counsel to the President with the responsibility of directing the White House Security Office.<sup>55</sup> Ms. Dannenhauer served in her capacity as Assistant to the Counsel during the Nixon, Ford, Reagan and Bush administrations, as well as the first 2½ months of the Carter administration.<sup>56</sup> Ms. Dannenhauer reported directly to either the White House Counsel or Deputy White House Counsel, and was the only person in the Security Office authorized to review the FBI background files.<sup>57</sup>

Previous White House Counsels testified to this committee that in each administration in which they served, the background investigation process was limited to a very small number of high level individuals. Those individuals included the White House Counsel to the President, the Deputy White House Counsel and the Assistant to the Counsel for Security. In a small number of instances, aspects of a particular FBI background report would have been discussed with a senior-level staff member on a need to know basis, without sharing the file.<sup>58</sup> "Background files were never shown to others in the White House, including the President, the Vice President, the chief of staff or the director of presidential personnel," according to Richard A. Hauser, Deputy Counsel to President Reagan.<sup>59</sup>

#### *1. White House Security Office practice and procedures*

When a new administration takes office it must complete background investigations on all new appointees and employees with White House access. In the past, a new administration began the process during the transition. It is important to complete this process in a timely manner to insure the security of both the President and vast amount of sensitive national security information contained within the White House. This process began with what is called a "name check."<sup>60</sup> To complete a name check an individual's name and Social Security number are sent to the FBI where it is checked against various databases to see if there was any recent potentially illegal activity in the public record.<sup>61</sup>

When the FBI receives the name check request, it disseminates the request to several internal units. These units check four different computer databases and the FBI central indices. The databases provide information on criminal histories, arrest records, outstanding warrants, as well as information on organized crime,

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Security of FBI Files* hearing, June 19, 1996, p. 38.

<sup>56</sup> *Security of FBI Background Files* hearing, June 19, 1996, p. 38.

<sup>57</sup> Prepared written statement of C. Boyden Gray, Counsel to President George Bush, pp. 11-12.

<sup>58</sup> *Security of FBI Background Files* hearing, June 19, 1996, pp. 23-26.

<sup>59</sup> *Security of FBI Background Files* hearing, June 19, 1996, p. 26.

<sup>60</sup> Prepared written statement of C. Boyden Gray, p. 3.

<sup>61</sup> *Security of FBI Files* hearing, June 19, 1996, p. 20.

terrorism, and foreign counterintelligence.<sup>62</sup> In addition, a name check request requires the FBI to look to see whether a "copy of a previous report" is on file for the individual. An FBI research analyst then reviews the summary memoranda contained in an individual's file to determine which reports to forward to the White House.<sup>63</sup> All of the information is then sent to the White House. In previous administrations, once an individual was cleared through the name check process, he was eligible for temporary access to the White House pending a full field FBI background investigation.<sup>64</sup>

Any individual seeking repeated or permanent access to the White House and all Presidential appointees were required to go through a full field background investigation.<sup>65</sup> The FBI full field background investigations were necessary in order to review the background of individuals at the White House for security reasons and also for the President to make a suitability determination.

To begin this process, the individual is required to fill out a "Standard Form 86," (SF-86) which provides personal data on the individual and authorizes the FBI to conduct the background investigation. As with the FBI background investigations, previous administrations only permitted the Director of the Security Office, the White House Counsel and Deputy White House Counsel to review the SF-86's.<sup>66</sup> In previous administrations, the bulk of the background investigations should normally be processed and reviewed during the first 6 months of the administration.<sup>67</sup>

## 2. *Updating the background files*

When an administration leaves the White House it is required to archive all of its papers pursuant to the Presidential Records Act.<sup>68</sup> Among the records required by this act to be archived are the FBI background files of all of the administration's appointees and employees. These FBI files are archived and placed under seal in the Presidential Library for 20 years. When the incoming administration arrives, it must recreate the files for those "holdover" employees who would be continuing their employment at the White House. The task of recreating the files fell to the White House Security Office.

In prior administrations, the Security Office only began the process of recreating the holdover employees' files after all of the paperwork on the new appointments had been completed.<sup>69</sup> The rationale for requesting these files after all the new employee paperwork had been completed was twofold. First, the holdover employees had

<sup>62</sup> Report of the FBI general counsel on the dissemination of FBI file information to the White House, June 14, 1996, p. 19.

<sup>63</sup> *Id.*, p. 20.

<sup>64</sup> Prepared written statement of C. Boyden Gray, p. 3.

<sup>65</sup> *Id.*

<sup>66</sup> *Security of FBI Files* hearing, June 19, 1996, p. 46. (A.B. Culvahouse, Counsel to President Reagan, testified that out of 12 lawyers in the White House Counsel's Office, only 2 others were authorized to review the forms. The Deputy White House Counsel and a designated Counsel's Office attorney was authorized to look at judicial forms.)

<sup>67</sup> Former Counsel to President Bush, C. Boyden Gray stated, "The inevitable backlog that results from so many investigations being requested at once requires the Security Office staff to spend 12-14 hour days just to manage the paper flow." Prepared written statement of C. Boyden Gray, p. 4.

<sup>68</sup> 44 U.S.C. §§ 2201-2207.

<sup>69</sup> Prepared written statement of C. Boyden Gray, p. 7.

already been cleared for access by a previous administration.<sup>70</sup> And second, by the time the paperwork had been processed on the new employees, the list of White House employees would be more current. It was necessary to obtain the FBI reports in order to update the background investigations of the holdover employees, who, along with all other White House pass holders, needed an update of their background investigation every 4 years.<sup>71</sup> Every new administration begins with the same information and every new administration has had to recreate the files of the permanent White House employees.

The procedure which each previous administration<sup>72</sup> followed to update its background files essentially consisted of four steps:

(1) the Security Office would obtain from the Secret Service and verify a current list of pass holders with access to the White House complex;

(2) the office would request from the FBI copies of the previous background reports concerning those on the list;

(3) the head of the office would review the prior reports to ascertain the date of the last background check, and to bring any derogatory information to the attention of the White House counsel; and

(4) the Security Office would send a new SF-86 to be completed by employees as they came due for an update investigation.<sup>73</sup>

Although the Security Office would rely on the Secret Service lists for current and accurate information in its lists of individuals that still had access to the White House, it was normal practice to cross reference and double check the lists.<sup>74</sup> It is solely the responsibility of the White House Security Office to inform the Secret Service that an individual should be taken off the access lists and listed as "inactive" to ensure that only present employees remain on the "active" Secret Service lists.<sup>75</sup>

In the first year of a new administration, the Security Office would proceed with its updates on an office by office basis to determine who the holdover employees were that needed to have their files recreated.<sup>76</sup> The Security Office would fill out a standard request form ordering a copy of the previous FBI report of the holdover employee. When the previous report was received in the Security Office, the Director of the office would personally review the file to determine and make a notation of the date when that the individual was due for a background investigation update.<sup>77</sup> That individual's name would then be added to the list, organized on a monthly basis, of individuals coming due for an update of their FBI background report.<sup>78</sup> The Director of the office would also review

<sup>70</sup>*Id.*, p. 6.

<sup>71</sup> Prepared written statement of Jane Dannenhauer, p. 1 (in committee files).

<sup>72</sup> Each administration since the Nixon administration has followed this procedure.

<sup>73</sup> Prepared written statement of C. Boyden Gray, p. 7.

<sup>74</sup>*Id.*, p. 8; *Security of FBI Background Files* June 19, 1996, p. 50.

<sup>75</sup> *Security of FBI Background Files* hearing, July 17, 1996, p. 59.

<sup>76</sup> Prepared written testimony of C. Boyden Gray, p. 8.

<sup>77</sup>*Id.*, p. 9.

<sup>78</sup>*Id.*

the file for derogatory information, ultimately sending the report on to the Deputy White House Counsel for adjudication.<sup>79</sup>

Because the Security Office maintained all of the confidential files on every individual with current access to the White House complex, the office was equipped with a separate vault room that was attached to the Security Office. All of the files were kept in the vault which was equipped with cabinets containing 70 rotating bins.<sup>80</sup> The files were stored in the bins alphabetically. The Security Office vault could be accessed only by entering and going through the Security Office. The door to the vault had a lock with a combination which only a few authorized individuals were given. The only other persons with access to the vault were members of the Office of Records Management.<sup>81</sup> This Office uses two of the four file cabinets in the Security Office vault to store its records. Terry Good, the Director of the Office of Records Management testified that his office stores materials from the White House office that "ranges from items that are considered confidential through security classified materials."<sup>82</sup> During the Clinton administration, Records Management also stored White House Counsel's Office files on all individuals being considered for appointments throughout the government.<sup>83</sup> Although the Office of Records Management file cabinets have separate locks, Good testified that they are often left unlocked during the day.<sup>84</sup>

### 3. *The transition from the Bush administration to the Clinton administration*

Since the end of the Nixon administration, Jane Dannenhauer briefed the attorneys in each new administration on what the Security office was and what it did. As she had done with past administrations, Dannenhauer met with several of the attorneys from the Clinton White House Counsel's Office before she left her position at the White House in March 1993.<sup>85</sup> She initially met with four or five of the attorneys, none of whom would be supervising the Security Office.<sup>86</sup> Dannenhauer then met with Craig Livingstone, who would ultimately become the new Director of the Security Office.<sup>87</sup> Ms. Dannenhauer testified that Livingstone appeared only to work there "part-time" while she was there. Mr. Livingstone "would come in and maybe be there a half a day."<sup>88</sup> Several weeks after the administration took office, Bill Kennedy, the Assistant White House Counsel who would be supervising the office, finally met with Ms. Dannenhauer.<sup>89</sup>

Ms. Dannenhauer's assistant since 1981, Nancy Gemmell, stayed on in the White House Security Office for 7 months into the new administration.<sup>90</sup> Although the office still was not entirely staffed

<sup>79</sup> *Id.*, p. 10.

<sup>80</sup> Livingstone, June 14, 1996, p. 38.

<sup>81</sup> Good, June 25, 1996, p. 16.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*, p. 17.

<sup>85</sup> *Security of FBI Background Files* hearing, June 19, 1996, p. 70.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*, p. 82.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*, p. 48.

at the time she left, Gemmell assisted in training the new employees in the procedures of the office.<sup>91</sup> She testified that she explained the Secret Service lists to the people working in the office and informed them that the initial list received from the Secret Service had to be updated.<sup>92</sup> Ms. Gemmell testified that an updated list needed to be ordered from the Secret Service once personnel decisions were made, especially in offices where there would be a high turn-over.<sup>93</sup> The Clinton administration kept Gemmell on until she retired on August 13, 1993.

B. CLINTON ADMINISTRATION PERSONNEL AND OPERATION OF THE OFFICE

*1. Who hired Craig Livingstone?*

Craig Livingstone, the new Director of the White House Security Office quickly came to the forefront of the investigation of the unauthorized requests of FBI background files. Although the office was supposed to maintain primarily the same functions as in previous administrations, the Clinton administration changed the name from the White House Security Office to the Office of Personnel Security (OPS) after Livingstone took over in early February 1993. Livingstone remained in this position until he resigned, announced at the committee's June 26, 1996 hearing.

Mr. Livingstone enjoyed a particularly long tenure, outlasting three White House Counsels and numerous supervisors.<sup>94</sup> However, nobody in the Clinton administration has taken responsibility for bringing Craig Livingstone into the White House. Livingstone himself cannot remember who hired him for the position of Director of OPS. He explained that he had been around during the campaign as an advance man, as well as assisting at the 1992 Democratic National Convention, "coordinating security" for the Democratic Finance Committee's VIP operations.<sup>95</sup>

David Craig Livingstone began his political career in 1984 working as an advance man on the Gary Hart for President and the Mondale/Ferraro campaigns. Mr. Livingstone was responsible for "organizing large crowd events" according to his resume.<sup>96</sup> Mr. Livingstone testified that he then spent the next few years "work[ing] in a bar and restaurant, work[ing] on small campaigns, Democratic initiatives."<sup>97</sup> However, his resume states that during this period he was an advance man for the Reagan/Gorbachev Summit Meeting in Geneva, Switzerland where he was responsible for arranging international press appearances for Presidents Reagan and Gorbachev. He also claims to have secured a 55 minute meeting between U.S. citizens and the General Secretary.

<sup>91</sup> *Id.*, p. 48.

<sup>92</sup> *Id.*, p. 50.

<sup>93</sup> *Id.*, pp. 50-51.

<sup>94</sup> Livingstone remained in the position of Director throughout the tenures of Counsels Bernie Nussbaum, Lloyd Cutler and Abner Mikva. He also outlasted his supervisors and associate counsels William Kennedy, Beth Nolan, and Christopher Cerf.

<sup>95</sup> Livingstone, 3/22/96 dep. p. 14. (See also, the Washington Post, September 9, 1996, pp. A1, A12. The Washington Post reported that a friend of Livingstone's stated that Livingstone's job consisted of posting himself at an escalator in the convention hall and saying "good evening" to VIPs who walked by. "Craig said his job was to meet and greet.")

<sup>96</sup> White House document CGE 46232.

<sup>97</sup> Livingstone deposition, March 22, 1996.

Mr. Livingstone also worked for Senator Timothy E. Wirth. In his resume, he states that he coordinated Senator Wirth's transition from the House of Representatives to the U.S. Senate. Although it is absent from his resume, Mr. Livingstone worked for the Hollywood Women's Political Committee "doing their Washington work."<sup>98</sup>

Craig Livingstone's first encounter with Al Gore was in 1988, when he served as his trip director traveling "daily" with Mr. Gore and claims to have produced Mr. Gore's 1988 Presidential announcement. Mr. Livingstone also failed to mention in his deposition or on his resume that he worked on the 1988 Dukakis for President campaign.<sup>99</sup> Livingstone also worked as the operations director for the Democratic National Committee Convention staff in 1988 in Atlanta, GA where he coordinated operations for DNC Chairman Paul Kirk. He returned to working at bars and restaurants during the interim and "coordinated screenings" for the highly controversial movie "The Last Temptation of Christ" in 1988. He also worked at a public relations company where he claims that he "prepared clients for legislative appearances."<sup>100</sup>

Mr. Livingstone worked for Washington, DC Councilwoman Charlene Drew Jarvis for approximately 1 year before he began his first employment with the Clinton campaign doing advance work.<sup>101</sup> From October 1991 to November 1992, Mr. Livingstone, according to his resume, was the "Senior Consultant to Counter-Event Operations" for Clinton/Gore '92. Mr. Livingstone claims to have "successfully deployed several of the infamous "Pinocchio" and "Chicken George" media events.<sup>102</sup> Mr. Livingstone also claims credit for "Special Operations and Advance" for then-Governor Clinton's successful primary and general election as well as assisting in the "creation and execution of mission objectives of the Clinton for President, Washington, D.C. local headquarters."<sup>103</sup>

In between Bill Clinton winning the primary but before the general election, Craig Livingstone went to "Africa to work training some soldiers, Democratic campaign techniques."<sup>104</sup> After returning from the Angola training grounds, Livingstone worked with the "VIP financial staff" on fundraising projects for President-elect Clinton and Vice-President-elect Gore. By November 1992, Livingstone was the lead and site lead advance person for the Clinton/Gore '92 campaign.

After the election, Livingstone was the director of security for the Presidential Inaugural Committee (PIC). He states that he had "responsibility for security at inaugural headquarters and all events."<sup>105</sup> In his deposition, Livingstone explained that his duties as director of security at PIC were to ensure that events were handled with the safety of the attendees in mind as well as producing

<sup>98</sup> *Id.*

<sup>99</sup> Livingstone SF-86 form completed 2/16/93 to begin his FBI background investigation.

<sup>100</sup> White House document CGE 46231.

<sup>101</sup> Livingstone deposition, p. 12.

<sup>102</sup> During President Bush's speeches figures dressed up as Pinocchio and as a chicken began to appear in the crowd and heckle President Bush.

<sup>103</sup> White House document CGE 46230.

<sup>104</sup> Livingstone deposition, p. 13.

<sup>105</sup> White House document CGE 46230.