

He told me that his goal in the White House was to become head of the [M]ilitary Office and that he felt that the Chief of Staff, Mack McLarty, was not supporting him enough in his quest to do that. And he often spoke of arguments he said he had with the Chief of Staff and others relative to his seeking this promotion.¹⁶⁴

On May 27, 1994, Livingstone wrote a note to George Stephanopoulos thanking him for offering to be of assistance in his efforts "to further serve the President as Director of the White House Military Office."¹⁶⁵ Mr. Livingstone listed four points which he believed should be considered in his quest for the office. The last of the four points, that "the job, by nature, should have someone with sound political skills—particularly as we approach N.H. [New Hampshire]," is most revealing of Livingstone's lack of understanding that all jobs in the White House are not political.¹⁶⁶

The Military Office is responsible for all of the military operations as they relate to the White House. White House communications, military aides, and the President's doctor all come under the supervision of the Military Office. The use of Air Force One, the helicopter as well as any other transportations of the President are under the control of this office. In essence, every military asset in the White House is run by the White House Military Office, an office for which a man of Craig Livingstone's background was not suited.

3. Livingstone's duties as Director of the White House Office of Personnel Security

After Livingstone became the Director of the Security Office, he requested that the name be changed to the Office of Personnel Security (OPS).¹⁶⁷ Although the Clinton administration changed the name of the office, it was supposed to perform essentially the same duties as it had in prior administrations. In a 1994 memo to Jodie Torkelson, Assistant to the President for Management and Administration, Livingstone described his duties as Director of OPS:

- process security papers for Presidential appointees and White House staff; handle daily contact with the FBI;
- maintain frequent contact with attorneys on an individual case basis;
- work with the Secret Service in processing applicants for access and White House passes; sit on numerous committees with the Secret Service;
- act as a liaison between Secret Service and staff;
- maintain clearance processes for White House Intern/Volunteer programs; initiate memoranda to the attorneys;
- initiate and maintain Security Interview process for both staff applicants and intern/volunteers;

¹⁶⁴ Aldrich deposition, p. 34.

¹⁶⁵ White House document CGE 46222.

¹⁶⁶ The thank-you note produced to this committee had a cover page attached stating "What should we do with this request?" Below this question is written the word "Nothing" and it is circled. White House document CGE 46221.

¹⁶⁷ White House document CGE 048607.

act as principal liaison with all government-wide department/agency security officers in assisting in their clearance processes, and;
process compartmentalized clearances for staff.¹⁶⁸

But in contrast to Jane Dannenhauer, his predecessor, Livingstone was involved in more than simply running the Security Office. Although Livingstone described one of his primary duties in 1993 as reviewing FBI background files,¹⁶⁹ he continued to do advance work for President Clinton even after taking over the position as Director of the Security Office.

Mr. Livingstone would often participate in Presidential and First Lady advance trips, traveling ahead of the President or First Lady to set up and handle logistics.¹⁷⁰ In fact, Livingstone stated, "we [White House appointees] are asked to do advance from time to time, and it's something that I have done. I would consider that part of my job."¹⁷¹

Mr. Livingstone also told FBI Agent Gary Aldrich that he was the Clinton administration's liaison to the FBI and spoke often with the Director of the FBI, Louis Freeh.¹⁷² The committee received a copy of a letter from FBI Director Louis Freeh to Livingstone that appears to confirm this fact. In the letter, Director Freeh said that "the President and the American people are indeed fortunate to have your dedication and service." After thanking Livingstone and "Stephanie" for their help with Director Freeh's sons, he said that "we look forward to seeing both of you soon. Don't forget to visit us at the FBI." It was signed "Very truly yours, Louie."¹⁷³

Mr. Livingstone altered the historical duties of the office in other ways as well. In a memo to Counsel to the President Abner Mikva requesting a raise, Livingstone wrote, "I strongly believe that my level of work reviewing IRS records, adjudicating FBI backgrounds, conducting intake security interviews and *developing corrective plans of action for individuals with problems that can be made right.*"¹⁷⁴ The memo did not describe what kind of plans of action or problems would be involved in this newly developed duty. In addition, as individuals left the White House for other positions, they would be "debriefed" by Livingstone as part of his duties.¹⁷⁵

In a September 22, 1993 memo Livingstone requested a permanent radio and cell phone stating, "this request is necessary due to the nature of my duties as Director of White House Security."¹⁷⁶ He did not enumerate what those duties were which required him to have a radio and cell phone. As discussed above, the next year, in May 1994, he again requested a White House issued cell phone to be "on call" during the weekend "to assist the President in whatever manner necessary."¹⁷⁷ As in the previous memorandum, he did not describe what his duties were or what assistance the Presi-

¹⁶⁸ White House document CGE 048827-829.

¹⁶⁹ Livingstone, June 14, 1996, p. 4.

¹⁷⁰ Livingstone deposition, March 22, 1996, pp. 24-25.

¹⁷¹ *Id.*, p. 26.

¹⁷² Aldrich deposition, July 18, 1996, p. 34.

¹⁷³ White House document CGE 054403.

¹⁷⁴ White House document CGE 048059. (Emphasis added) (May 30, 1995 memo from Craig Livingstone to Abner J. Mikva, re: Follow-up to pay adjustment request.)

¹⁷⁵ Livingstone, March 22, 1996 dep. p. 31.

¹⁷⁶ White House document CGE 054087.

¹⁷⁷ White House document CGE 048523.

dent needed from him on weekends. Livingstone was also attempting to expand his role in White House security and was planning a "security committee."¹⁷⁸

Former White House Counsel C. Boyden Gray made clear that substantive judgments on the background investigations were reserved exclusively to the White House Counsel and Deputy Counsel.¹⁷⁹ The responsibility for the adjudication was kept at the highest levels of the Counsel's Office not only to ensure immediate access to the President with any problems, but also to ensure the confidentiality of the files.

In the Clinton administration, the responsibility was given to an associate counsel, William Kennedy, who in turn passed along the responsibility to Craig Livingstone, who in turn passed it along to his staff which consisted of interns and young individuals in their first job.¹⁸⁰ The confidentiality of all of the FBI background files was jeopardized once the Counsel to the President, Bernard Nussbaum, denounced any responsibility for this unpleasant yet necessary work. The FBI background investigations are conducted for the White House in order to protect the country in connection with potential security breaches, as well as to protect the President politically and physically. Not only did Livingstone shift his responsibility to review background investigations to lower level staff but he also was looking for creative ways for Clinton appointees to get around problems in their backgrounds, ignoring the purpose of the investigation.

Mr. Livingstone's explanations of his duties in the White House raise questions as to whether he was authorized to undertake these tasks, and if so, by whom. It is clear on more than one occasion that his superiors were aware of what he was doing, as he outlined these additional duties in his memos to them. Mr. Livingstone's predecessor worked long hours in her position as Director of the Security Office. She did not have time to do political advance work or to expand the mandate of her office.

What is important to note is that there was never a backlog of passes, never any security concerns raised by the Secret Service, and certainly never any unauthorized requests sent to the FBI during the tenures Livingstone's predecessors. There seemed to be little or no supervision of Livingstone and the activities he was pursuing. The Clinton administration put someone in this sensitive office with no experience and who clearly was unsuitable as recognized by both the FBI and the Secret Service. Not only did the White House ignore the importance of the suitability issue but after placing an unsuitable person in this position, the responsible

¹⁷⁸ White House document CGE 054002 (Letter from Paul Connelly, Chief of Security and Safety Division of the White House Communications Agency to Craig Livingstone dated May 8, 1994. "I was very happy to hear of your mandate and desire to widen your role in White House security and am interested in participating on the White House security committee you mentioned.) (Emphasis added.)

¹⁷⁹ *Security of FBI Files* hearing, June 19, 1996, p. 23.
¹⁸⁰ Livingstone deposition, June 14, 1996, p. 49. (Livingstone stated: "I think in the first year I looked at a lot of the reports, but as we all got trained in our functions and our mission became clear, we—I trained my staff to look for certain types of information, and if there wasn't any of that type information, that I felt confident that they could make a decision if the information was derogatory or not." He then noted that he did not even train the staff, Lisa Wetzel, a staff assistant did, "I believe it was 1994 when Ms. Wetzel trained our staff." Ms. Wetzel was only 22 years old when she began in the office and in a thank you note to Livingstone, she said it was the first job she ever held.)

parties, the White House Counsels, abdicated supervisory responsibility. It is not surprising then that problems would arise.

4. Livingstone's salary requests

Mr. Livingstone was hired as the Director of the Personnel Security Office at a salary of \$45,000 in February 1993. In a May 10, 1993 memo to Associate Counsel to the President Bill Kennedy, Livingstone requested a salary increase of \$5,000.¹⁸¹ On October 20, 1993, Livingstone did receive an increase to \$51,000 which was approved by Bernard Nussbaum.¹⁸²

Between May and August 1994, three Counsel's Office attorneys wrote letters on behalf of Livingstone requesting an increase in his salary. The Assistant to the President for Management and Administration, David Watkins, wrote a memo to Associate Counsel Beth Nolan in May 1994 noting that it had come to his attention that she had requested a salary increase for Livingstone.¹⁸³ Mr. Watkins explained that a salary freeze was in effect for all salary adjustment actions.¹⁸⁴ Nevertheless, Nolan's colleague, Associate Counsel Chris Cerf, wrote a memo to Deputy Chief of Staff Phil Lader on July 1, 1994 requesting a raise for Craig Livingstone.¹⁸⁵ Mr. Cerf wrote, "[i]t would be an overwhelming setback if Craig's frustration over his salary contributed to a decision to seek employment elsewhere. I consider this to be a significant risk that we should be doing everything in our power to minimize."¹⁸⁶

In a third attempt to get Livingstone a raise, both Beth Nolan and Deputy Counsel to the President Joel Klein joined in a memo to Deputy Chief of Staff Phil Lader.¹⁸⁷ In the memo they acknowledged that there was a general freeze on salaries but argued that an exception should be made for Livingstone, asking that he be given an immediate raise to \$60,000.¹⁸⁸ They cited his extraordinary effort to clear up a backlog of White House passes, one of Livingstone's duties as Director of Personnel Security.

Mr. Livingstone did receive a salary increase on January 8, 1995 to \$57,500, which was approved by White House Counsel Abner Mikva.¹⁸⁹ Nine months later Livingstone received yet another salary increase to \$63,750.¹⁹⁰ Before receiving that final increase Livingstone had written two memos to Counsel to the President Abner

¹⁸¹ White House document CGE 047884. (Memo from Craig Livingstone to William Kennedy, dated May 10, 1993. In the same memo, Livingstone requested that Nancy Gemmill remain on paid status through August 1, 1993. He also asked to bring on a receptionist at a reduced salary of \$17,000. "On August 1, 1993 my salary would increase TO \$50,000 from \$45,000. Based on the reduction of salary for the receptionist.")

¹⁸² White House document CGE 046144.

¹⁸³ White House document CGE 048509. (Memo from David Watkins to Beth Nolan dated May 25, 1994, re: salary adjustment. The memo was copied to Patsy Thomasson and Kelli McClure and read, "EYES ONLY")

¹⁸⁴ *Id.*

¹⁸⁵ White House document CGE 048622. (Memo from Christopher D. Cerf to Phil Lader, Deputy Chief of Staff, re: raise for Craig Livingstone. The memo was copied to Beth Nolan.)

¹⁸⁶ *Id.*

¹⁸⁷ White House document CGE 048627. (Memo from Joel Klein, Deputy Counsel to the President and Beth Nolan, Associate Counsel to the President dated August 19, 1994, re: raise for Craig Livingstone. The memorandum was marked "Personal and Confidential." The memo was forwarded to Livingstone with a handwritten note from Beth Nolan, "our 3rd effort, it has gone to Phil. Joel will also talk to him.")

¹⁸⁸ Nolan and Klein stated that Livingstone had worked 18 months at "an inadequate salary" of \$51,000.

¹⁸⁹ White House document CGE 046217.

¹⁹⁰ White House document CGE 046215. (The document is a "Change in Employee Status" form, change in salary requested by Abner Mikva, dated September 28, 1995.)

Mikva. The first memorandum, dated May 30, 1995, states, "I have done my best to be a good soldier," and requests a salary increase to \$65,000.¹⁹¹ The second memorandum, dated August 28, 1995, takes on a much stronger and almost threatening tone.

It would be wrong not to approve my request. Not just because I was promised but because I have demonstrated that I deserve it. I apologize for my tone but this is my last try to remain part of the team.¹⁹²

In this second request, his salary demand increased to \$70,000.¹⁹³

Mr. Livingstone's final request for a raise came on May 14, 1996, just 5 days after the committee held the White House in contempt for the failure to turn over subpoenaed documents. Among the documents that had been withheld was the White House request for Billy Dale's FBI background file. The Assistant to the President for Management and Administration, Jodie Torkelson, wrote a memo requesting information on Livingstone's salary history and any notes or paperwork on what he may have been promised. Ms. Torkelson states in the memo, "Livingstone's at it again. He's submitted paperwork for signature giving himself a raise and saying that he was promised the money by Abner [Mikva]. . . . I'd like to kill this before I leave."¹⁹⁴

~~Craig Livingstone claimed that two White House Counsels, Bernard Nussbaum and Abner Mikva, promised him that he would get a raise to \$70,000. He wrote memos directly to Counsel to the President Mikva stating that he deserves a raise because he had been a "good soldier" and "weathered the office through a few storms." How was Livingstone able to secure a 40 percent salary increase in only 3 years? His salary rose rapidly from \$45,000 to \$63,750. Although Livingstone complained that his predecessor made over \$60,000, he did not acknowledge that she had over 20 years of experience as Director of the Security Office. Mr. Livingstone had no background, education or experience in the area, yet he was given significant salary increases. His office was responsible for the backlog in passes yet he claimed credit and demanded rewards for clearing up that same backlog.~~

His persistent demands for salary increases and ability to rally the Counsel's Office behind him raise even more questions about who Craig Livingstone really is. Although most people in the White House would now deny knowing him or at best admit that they may have seen him around, Livingstone was able to garner support for his cause when necessary.

5. Livingstone brings on new staff

The White House Security Office began using interns for the first time in its history after Livingstone came on as Director. Mr. Liv-

¹⁹¹ White House document CGE 048059. (Livingstone states that at a salary of \$57,500 he was living paycheck to paycheck and complains that his predecessor, who had been in the position since the Nixon administration, made over \$60,000.)

¹⁹² White House document CGE 048058. (Livingstone also notes that his "situation" had gone on for over 2½ years, pointing out that he had "seen [the] office through a few storms.")

¹⁹³ Attached to the authorization form for the salary increase was a note from Kelli McClure to Deputy Counsel to the President James Castellito, "[t]he increase was approved by Judge Mikva. It is my understanding that it was based on a promise made when Bernie Nussbaum was here." White House document CGE 046216.

¹⁹⁴ White House document CGE 053840. (The increase in salary requested was to \$70,000.)

Livingstone's Executive Assistant, Lisa Wetzl, began as an intern in OPS in June 1993 after graduating from college in May of the same year.¹⁹⁵ Other assistants in the office started as interns before moving up to staff positions. Ed Hughes began as an intern in February 1994 after graduating from college in June 1993.¹⁹⁶ Jonathan Denbo, an assistant in the office, was an intern in the office in the summer of 1994 and was hired in September after he graduated from college in May 1995.¹⁹⁷ The staff in the office was generally very young and inexperienced. Nevertheless, all of the staff were granted top secret clearance by the White House and compartmentalized clearances from the CIA.

During 1993 and early 1994 the Office of Personnel Security had an extensive backlog in paperwork. White House appointees were not completing their paperwork and those that were completed were not being sent to the FBI. By April 1993, Livingstone was attempting to get his friend and political ally, Anthony Marceca, detailed to the office to assist with the backlog.

III. DETAIL OF ANTHONY MARCECA TO THE WHITE HOUSE

A. INTRODUCTION

Anthony Marceca is one of the central figures in the investigation of the FBI files matter. The White House claims that he was the individual responsible for ordering hundreds of files on former Reagan and Bush administration officials. First described as a "low-level clerk," the White House refused to release Marceca's name to the committee for several days. However, the committee soon learned through press accounts that the so-called low-level clerk was a White House detailee employed as a civilian investigator in the Army Criminal Investigative Division (CID). President Clinton's deputy campaign manager, Ann Lewis, claimed Marceca was a "non-political staffer."¹⁹⁸ Anthony Marceca is a longtime political colleague of Craig Livingstone. The two worked on advance for numerous campaigns since the Hart campaign in 1984.

Mr. Marceca was detailed to the White House Office of Personnel Security in August 1993 at the request of Associate White House Counsel William H. Kennedy. Mr. Kennedy wrote two letters directly to Secretary of Defense Les Aspin regarding Marceca's detail.¹⁹⁹ Kennedy, in one letter, stated that he had "learned of Agent Marceca's unique investigative abilities and background and would greatly appreciate his full-time assistance here."²⁰⁰

Once ensconced in the office, Marceca attempted to use the position as a springboard to a Presidential appointment. He was interviewing for positions as a U.S. Marshal as well as Inspector Gen-

¹⁹⁵ Wetzl deposition, June 17, 1996, p. 7. Ms. Wetzl began as an OPS intern in June 1993, she was hired as a staff assistant in August 1993 and promoted to Executive Assistant in the fall of 1994. Ms. Wetzl left the office in September 1995 to work as a confidential assistant to Secretary of the Army, the Honorable Togo D. West, Jr.

¹⁹⁶ Deposition of Edward Hughes, August 13, 1996, p. 6. (Hughes became Livingstone's Executive Assistant in September 1995.)

¹⁹⁷ Deposition of Jonathan Denbo, September 4, 1996, p. 3.

¹⁹⁸ Ann Lewis, *This was a simple mistake*, USA Today, June 10, 1996, p. A12.

¹⁹⁹ White House documents CGE 043814.

²⁰⁰ White House documents CGE 043816, letter from Kennedy to Aspin, dated April 13, 1993, re: request for detailee.