

Ms. Jane Dannenhauer, Assistant to the Counsel to the President in charge of the Security Office during the Nixon, Ford, Reagan and Bush administrations, reported that a new administration normally completed its pass issuance within approximately 6 months, or at most 9 months.⁵⁹⁶ In comparison, the GAO reported that only *two* Clinton staffers had permanent passes 9 months into the administration.⁵⁹⁷ Messrs. Kennedy and Livingstone, who were responsible for White House pass issuance, did not obtain their own passes until November 23, 1993.⁵⁹⁸

2. *Unsuitable personnel in charge of overseeing the Office of Personnel Security*

While the committee and the public have yet to learn who hired Craig Livingstone, the committee discovered information on the hiring of his supervisor, William Kennedy. Mr. Kennedy testified that Mrs. Clinton participated in his selection as Associate White House Counsel.⁵⁹⁹ At the time of his background investigation, Kennedy informed the FBI's SPIN Unit Chief Bourke that he was a "close personal friend of the President and Mrs. Clinton for twenty years and was a managing partner in the same Arkansas law firm in which Mrs. Clinton was employed."⁶⁰⁰

Mr. Kennedy, in his position as an Associate Counsel, reviewed the sensitive background investigations of Presidential appointees and White House staff, including Director of Personnel Security Craig Livingstone. Although Kennedy supervised Livingstone's office and was aware of problems in Livingstone's background, he favorably adjudicated his file.⁶⁰¹

Mr. Kennedy had background problems of his own. Mr. Kennedy did not properly disclose his failure to pay Social Security taxes for a servant in his home. He paid the taxes belatedly under his wife's former married name.⁶⁰² Just as Kennedy had ignored the problems in Livingstone's background, Livingstone adjudicated Kennedy's background favorably, ignoring the derogatory information.⁶⁰³ Although each had completed the adjudication of the other's file, Kennedy did not forward either his or Livingstone's file to the Secret Service for months.⁶⁰⁴

Four Counsels to the President and two Chiefs of Staff kept Mr. Livingstone in his position despite serious concerns about his background. Livingstone was retained despite his penchant for short working hours and routine demands for large salary increases. Keeping Craig Livingstone employed seemed more important to

⁵⁹⁶ Staff interview of Jane Dannenhauer.

⁵⁹⁷ GAO report, p. 21.

⁵⁹⁸ GAO documents prepared for GAO report, January 5, 1995. (In committee files).

⁵⁹⁹ Kennedy deposition, June 18, 1996, p. 4.

Question: Did the First Lady have any involvement in your hiring?

KENNEDY. She did.

⁶⁰⁰ February 26, 1993 memo to Mr. Brekke from Mr. Bourke regarding "Meeting with William Kennedy, Associate Counsel, the White House, February 18, 1993. (FBI document production, July 10, 1996, unnumbered.)

⁶⁰¹ Kennedy deposition, June 18, 1996, p. 9.

⁶⁰² "Patsy Takes the Fiske," Wall Street Journal, March 24, 1994.

⁶⁰³ CGE 054658, undated document titled "Deconcini" with questions and answers, CGE 54654-662.

⁶⁰⁴ Ann Devroy, *100 on White House Staff Lack Clearance*, the Washington Post, March 14, 1994.

Clinton administration officials than maintaining the security of some of the Nation's most sensitive files.⁶⁰⁵

Former White House Counsels have testified that the process of reviewing FBI files "is a solemn, legal and ethical obligation."⁶⁰⁶ After the committee discovered that the Office of Personnel Security ordered the files of hundreds of former Reagan and Bush administration officials, the Director of the FBI, Louis Freeh, called the actions "egregious violations of privacy."⁶⁰⁷ Director Freeh continued to state that the files were ordered "without justification."⁶⁰⁸ As Director Freeh pointed out, the system utilized relied on the "good faith and honor" of those involved in the process.⁶⁰⁹ As the Washington Post opined on June 17, 1996:

. . . damage was done from Day 1 when Craig Livingstone was put in this job. The last people in government to have access to, let alone be custodians of, sensitive background investigation reports and material should be political operatives. That, unfortunately, is what the Clinton administration seems to have done. And that's for starters.⁶¹⁰

FBI Special Agent Tom Renaghan, who supervised the FBI agents who conducted background investigations at the White House, remembered issues in Livingstone's background:

that were not totally favorable . . . they [FBI agents Aldrich and Sculimbrene who conducted background investigations at the White House] both felt that he wasn't the right guy to be the Security Director. They didn't think he had the background or demeanor, didn't appear to be the kind of guy that would be the type of person that would be—you would expect in that position . . . He was unprofessional in many ways, as unprofessional as they would perceive a guy to be who had that type of a job. . . . They voiced their opinion to me about that periodically asking me to take some kind of action to get something done with respect to him.⁶¹¹

Mr. Kennedy allowed Livingstone to retain his sensitive position after reviewing Livingstone's background file. Although both FBI and Secret Service agents raised suitability and security concerns about Livingstone, Kennedy ignored them.⁶¹² Senator Dennis DeConcini, the then-Democratic chairman of the Treasury Postal Service and General Government Subcommittee of the Appropriations Committee, which approved appropriations for the White

⁶⁰⁵ Three attorneys in the White House Counsel's Office wrote letters requesting a raise for Craig Livingstone, even though there was a salary freeze. CGE 048622, 048627; Mr. Livingstone wrote several letters to Abner Mikva requesting a raise, stating, "[T]his is my last try to remain part of the team." CGE 048058; See, supra section III.

⁶⁰⁶ *Security of FBI Files* hearing, June 19, 1996, p. 32. (Testimony of A.B. Culvahouse.)

⁶⁰⁷ Howard M. Shapiro, general counsel, FBI; *Report of the General Counsel on the Dissemination of FBI File Information to the White House*; June 14, 1996. (Statement of FBI Director Louis Freeh).

⁶⁰⁸ *Id.*

⁶⁰⁹ Howard M. Shapiro, general counsel, FBI; *Report of the General Counsel on the Dissemination of FBI File Information to the White House*; June 14, 1996.

⁶¹⁰ "The FBI Files Flap: Take 2," the Washington Post, June 17, 1996.

⁶¹¹ Renaghan deposition, July 19, 1996, pp. 62-65.

⁶¹² Cole deposition, July 10, 1996, pp. 21-22.

House, as well as chairman of the Senate Intelligence Committee, recommended that Livingstone be replaced in 1994 with a professional careerist. Senator DeConcini's recommendations were ignored by then-White House Counsel, Lloyd Cutler.⁶¹³

B. THE PROCESS BY WHICH BACKGROUND INVESTIGATIONS ARE CONDUCTED

The process for obtaining a permanent access pass to the White House generally requires the following steps:

1. *Pre-employment steps*

a. Security interview

Prior to each person's appointment, applicants must undergo a security interview conducted by the relevant security office.⁶¹⁴ In the case of the political staff, generally the "White House staff," the interview would be conducted by the Office of Personnel Security, supervised by Livingstone. For the career staff, the Office of Administration Security Officer would conduct the interviews.⁶¹⁵ During the first year-and-a-half of the Clinton administration, hundreds of employees did not submit to this interview prior to employment, or for many months after being hired.⁶¹⁶

b. Submit to a drug test

All applicants must submit to a drug test. If the test is positive, the person is supposed to be disqualified from appointment.⁶¹⁷ Many of the new employees in the Clinton administration did not take drug tests prior to employment at the White House, and they were often conducted months later.

c. An initial name check

Applicants must undergo an initial name check in which their name, date of birth, place of birth, and Social Security number are checked through the Secret Service's Workers, Appointment, and Visitors Entrance System (WAVES). This consists of checks through four computer databases: the FBI's National Crime Information Center database; a criminal history database; a Secret Service database; and a Washington-area law enforcement database.⁶¹⁸ This is the type of name check that is conducted for visitors at the White House. For many Clinton White House staff in the first year-and-a-half, this was the only background check conducted on them.

d. An extensive FBI name check

In this process, the White House forwards a request form to the FBI to check the name through the FBI Central Records, computer databases and the Criminal Justice Information Services database

⁶¹³ August 11, 1994 letter to the President from Senator DeConcini.

⁶¹⁴ GAO report, p. 15.

⁶¹⁵ Easley deposition, July 26, 1996.

⁶¹⁶ GAO report.

⁶¹⁷ GAO report, p. 15.

⁶¹⁸ GAO report, p. 15.

to identify any derogatory information and prior arrest records.⁶¹⁹ Any previous report is also provided if the individual already has an FBI background investigation on file.

e. Obtaining a temporary pass

Each new employee who is expected to work 90 days or more has 30 days from the date of employment in which to complete the SF-86, an FBI investigation consent form, and a tax check waiver.⁶²⁰ This 30 day standard was the regular practice in past administrations; however, there was no such legal requirement.

Mr. Charles Easley, who headed up the Security Office for career employees at the White House, stated that if someone did not turn in their SF-86s and other background information within 30 days, "they had a lot of time to sit at home and do their forms" because he would not allow someone to work at the White House.⁶²¹ Mr. Easley said that this was not the case for the staff handled by Livingstone. Easley acknowledged that he was aware that Livingstone allowed staff to work at the White House and obtain a temporary pass without turning in paperwork, a change in normal procedure.⁶²²

Previously, the practice had been that an individual had to stay on an "access list" prior to completing the SF-86 and related paperwork, which meant the person would have to present positive identification each time he or she entered the White House complex.⁶²³ Once the FBI name check is returned, the individual would be issued a temporary pass for a period not to exceed 90 days. After one extension, the Secret Service is supposed to contact the requesting office to provide a rationale for an additional extension.⁶²⁴ Each new employee also is required to attend a security briefing at which his or her attendance should be documented.⁶²⁵

f. Obtaining a permanent pass

Before a permanent pass is obtained, the FBI or some other agency must conduct a full-field background investigation. If the investigation reveals information that warrants attention, the FBI notifies the White House Counsel's Office, the White House Office of Personnel Security, or the Security Office of the EOP (administered by Charles Easley) and might provide an interim report.⁶²⁶

Once the reviewing office receives the FBI background investigation summary, it determines suitability and decides whether to forward the file to the Secret Service. A written request is sent to the Secret Service for a permanent access pass for the employee and, if the Secret Service agrees there is no danger to the President or other protectees, a permanent pass is issued.⁶²⁷

During the first year-and-a-half of the Clinton administration, this process was neglected and hundreds of new White House staff worked in positions, including the most senior positions, with only

⁶¹⁹ GAO report, p. 15.

⁶²⁰ GAO report, p. 16.

⁶²¹ Easley deposition, p. 48.

⁶²² Easley deposition, pp. 48-50.

⁶²³ GAO report, p. 16.

⁶²⁴ GAO report, p. 16.

⁶²⁵ GAO report, p. 16.

⁶²⁶ GAO report, p. 17.

⁶²⁷ GAO report, p. 18.

very limited checks on their backgrounds and no permanent passes. The importance of following procedures and determining the suitability of staff members is to protect both the President, personally, and the vast amount of sensitive information at the White House.

At no place is it more important that individuals of the highest caliber serve in positions of responsibility than at the White House. The White House handles matters of life and death on a daily basis and the American people must be able to rely upon stable and suitable people being involved in this process. Because the White House had failed in this process, Presidential Assistant Patsy Thomasson made this alarming admission in her March 22, 1994 testimony before the House Treasury Postal Appropriations subcommittee: "We don't think we have any Aldrich Ames at the White House . . . But we certainly could."⁶²⁸

This admission prompted then-Congressman Dan Glickman, chairman of the House Intelligence Committee to write to the Director of the CIA asking what steps he had taken to ensure that White House staffers without clearances did not have access to classified material.⁶²⁹ Representative Glickman noted at the time, "The urgency of this matter has been highlighted by the arrest of Aldrich Ames."⁶³⁰ Early in the administration, there was cause for concern about White House personnel.

C. BACKGROUND INVESTIGATIONS OF CLINTON WHITE HOUSE STAFF

1. *White House staff provided minimal cooperation to the FBI*

The FBI agents who worked on a day-to-day basis in conducting FBI background investigations on the new Clinton White House staffers were very familiar with the delays in obtaining White House passes. From the start, the process was slower than with previous administrations and staff cooperation was limited.

FBI Agent Dennis Sculimbrene testified that the incoming administration usually starts sending cases on Cabinet-level personnel and appointees in December, before the Presidential Inauguration. But that did not occur with the Clinton administration.⁶³¹ Agent Sculimbrene said there was a marked contrast with this administration: "the forms were poorly filled out and they didn't even start getting them until July."⁶³² When they received the forms, they were often backdated.⁶³³

Agent Sculimbrene's supervisor, Tom Renaghan, also reported that backgrounds were received late and were backdated.⁶³⁴ FBI Agent Cecelia Woods, another agent assigned to the White House, reported that she saw the dates on SF-86s visibly changed and received SF-86s sometimes 8 months after they had been completed by the appointee.⁶³⁵

FBI Agent Greg Schwarz testified that he had trouble setting up interviews or getting people to appear for interviews and was

⁶²⁸ *Patsy Takes the Fiske*, the Wall Street Journal, March 24, 1994.

⁶²⁹ *Id.*

⁶³⁰ *Id.*

⁶³¹ Sculimbrene deposition, July 15, 1996, p. 28.

⁶³² *Id.*, p. 29.

⁶³³ *Id.*

⁶³⁴ Renaghan deposition, pp. 13-15.

⁶³⁵ Woods deposition, July 10, 1996, pp. 20-22.

aware of this happening to other agents at the White House.⁶³⁶ Agent Woods testified that Renaghan, her supervisor, advised Unit Chief Bourke of these irregularities and that Bourke should have discussed the problems with Associate White House Counsel Bill Kennedy.⁶³⁷ Woods, however, never saw any corrective actions taken on issues she or her colleagues raised with her supervisors.⁶³⁸

FBI Agent Gary Aldrich explained that he had problems conducting background interviews, including: problems in locating individuals, an inability to contact them directly and appointments being made and broken.⁶³⁹ As a result of these problems, Deputy White House Counsel Vincent Foster sent out a memo to all staff on February 17, 1993 instructing them to cooperate with FBI Agents Aldrich and Sculimbrene. Mr. Foster wrote:

There are a large number of staff members yet to be interviewed and only a few weeks left to complete them before your temporary clearance expires. Please be responsive to the Agent's request for an interview and accommodate his schedule.⁶⁴⁰

There was such laxity in submitting the names of new White House staff for background investigations that Bourke resorted to clipping newspaper articles which identified new staffers and sending them to Bill Kennedy with notes that the FBI had not received the backgrounds of the individuals named.⁶⁴¹

Agent Bourke's letters to Kennedy highlight the fact that the FBI had not been provided information on many top White House officials as late as October 1993. In an April 7, 1993 letter to Bill Kennedy, Bourke wrote: "I read an article in the April 6, 1993, edition of USA Today on Jocelyn Elders. It reminded me that we still do not have the paperwork to do her background investigation (BI)."⁶⁴² At the same time that the White House was negligent in obtaining background investigations on new White House staff members, Livingstone and Marceca were ordering the background investigations on former Reagan and Bush officials.

2. Problems in the background investigations of Clinton administration staff

Almost immediately FBI agents reviewing the background files of the new Clinton White House officials noticed significant problems. According to Sculimbrene, the problems in the backgrounds included, "using illegal drugs repetitively, lying to law enforcement officers, lying about school records, being fired."⁶⁴³

⁶³⁶ Schwarz deposition, July 11, 1996, pp. 27-30.

⁶³⁷ Woods deposition, July 10, 1996, pp. 22-23.

⁶³⁸ *Id.*, p. 61.

⁶³⁹ Aldrich deposition, July 18, 1996, p. 20.

⁶⁴⁰ Memorandum to all White House Office Staff from Vincent Foster and William Kennedy, CGE 048210.

⁶⁴¹ FBI document production, July 10, 1996 (unnumbered), March 1, 1993 letter to Bill Kennedy from Jim Bourke; April 7, 1993 letter to Bill Kennedy from Jim Bourke; October 20, 1993 letter to Bill Kennedy from Jim Bourke.

⁶⁴² April 7, 1993 letter to Bill Kennedy from Jim Bourke.

⁶⁴³ Sculimbrene deposition, July 15, 1996, p. 42.