

See Memorandum and Order (May 17, 1999) (re: Kennedy) at 6, 7 (then-current Clinton Administration personnel not relevant); Memorandum and Order (Apr. 16, 1999) (re: Anderson) at 10 (same). In the case of persons under consideration for presidential appointments, EOP also objects on grounds of attorney-client, deliberative process and presidential communications privileges.

(d) EOP objects to subpart (d) on the ground that the use of background reports obtained on persons who continued to work at or hold active passes to the White House complex, or who were considered for presidential appointments, is irrelevant. See supra at 4. Subject to this objection, and without waiving it, EOP responds that the background reports of the persons listed on Exhibit B were used to determine (i) whether they were due for five-year background re-investigations, (ii) their suitability for continued access to the White House complex, (iii) to prepare memoranda to their employing offices inquiring whether they still worked at the complex (see, e.g., 1 000256-265), and, in applicable cases, (iv) their suitability for presidential appointments.

As for the previous reports obtained by Mr. Marceca that Lisa Wetzl later transferred for archival storage to ORM, to the best of EOP's knowledge and belief these reports were stored in a file bin separate from the other files in the OPS vault. EOP is unaware of those files being used for any purpose except (i) for Ms. Wetzl to determine whether OPS still needed to maintain them, (ii) to verify that the files belonged to people whose names were written on the file folders before their transfer to the custody of the FBI on June

6, 1996, and (iii) to respond to plaintiffs' discovery requests in this litigation.

With respect to other previous reports that either Ms. Gemmell, Mr. Marceca or Ms. Wetzl obtained in connection with the Update Project on persons listed on Exhibit C (i.e., those who in fact no longer worked at or held passes to the White House complex), EOP has no knowledge of them being used for any purpose other than, perhaps, those already discussed in this response. The same is true for the previous reports that either Ms. Gemmell or Mr. Marceca obtained in connection with the Update Project on persons who, so far as EOP can determine, may or may not have still been working at or holding passes to the White House complex.

As to the previous reports discussed above that may not have been requested in connection with the Update project, EOP is unaware of them being used for any purpose other than those stated on the request forms themselves, those indicated by the purge logs, or those discussed above in the response to this interrogatory.

(e) See subpart (c), above, and subpart (f), below.

(f) The only people with access to files maintained by OPS have been (i) OPS employees, (ii) employees of the EOP Security Office, (iii) ORM employees to the extent that ORM maintained OPS files, (iv) members of the White House Counsel's Office, on a need to know basis, and (v) security personnel from other federal agencies who were allowed to review the OPS files of individuals (usually under consideration for employment by those agencies) for their own clearance purposes. Personnel from the Office of Independent Counsel

("OIC") were also given access to these files in connection with OIC's investigation of the FBI files matter.

EOP objects to Interrogatory 1, subpart (f) on the basis of undue burden, to the extent it purports to require EOP to attempt to ascertain each individual who may have had access to the personnel security file of each person listed on plaintiffs' Exhibit 1.

(g) EOP objects to Interrogatory No. 1, subpart (g), on the ground that the term "improperly" as used therein is vague and ambiguous. Subject to that objection, and without waiving it, plaintiffs are referred to Response No. 1, subpart (a), above, and Exhibit C hereto.

INTERROGATORY NO. 2: For each person who had their FBI file improperly obtained by the Clinton White House, identify each person who caused the file to be improperly obtained.

RESPONSE: EOP objects to Interrogatory No. 2 on the ground that the term "improperly" as used therein is vague and ambiguous. Subject to that objection, and without waiving it, EOP responds that although it is impossible to know with certainty who ordered the previous report of each person who no longer worked at or held a pass to the White House complex, or who was not under consideration for a presidential appointment, to the best of EOP's knowledge and belief those requests dated July 30 to August 17, 1993 were made by or at the instruction of Nancy Gemmill, those dated October 29, 1993 to February 18, 1994 (the vast majority) were made by or at the instruction of Anthony Marceca, and those dated April 26 to June 29, 1994, and possibly as late as December 1994, were made by Lisa Wetzl. See Interrogatory 1, subpart (b).

As for the remaining six names on Exhibit C see supra at 7, to the best of EOP's knowledge and belief they were requested by persons employed with OPS. See supra at 9.

INTERROGATORY NO. 3: For each person who caused any of the FBI files on Exhibit 1 to be improperly obtained by the Clinton White House, describe with specificity everything the person did to cause this to happen.

RESPONSE: EOP objects to Interrogatory No. 3 on the ground that the term "improperly" as used therein is vague and ambiguous. Subject to that objection, and without waiving it, EOP responds that to the best of its knowledge and belief, the persons identified above who obtained prior background summary reports on individuals listed on Exhibit 1 (i.e., Ms. Gemmell, Mr. Marceca, Ms. Wetzl, and possibly other OPS personnel) did so by filling out pre-printed forms, under the typewritten name of the current Counsel to the President, requesting copies of "previous reports" on the individuals named in the forms. See, e.g., FBI 00006447-00006896. The forms were routinely forwarded to the FBI by courier, without prior review by the Counsel to the President or anyone else outside OPS. After processing the requests, the FBI returned the previous reports (if any) on the individuals named directly to OPS, by courier, in sealed envelopes.

In connection with the Update Project, Ms. Gemmell obtained a White House pass holder list from the Secret Service, in order to identify persons whose previous reports would have to be requested from the FBI (i.e., those who continued to work at or hold passes to the White House complex notwithstanding the change in

administration). At her request, the list was customized to reflect the information necessary for OPS to carry out the Update Project (information not normally reflected on routine Secret Service passholder lists). Unbeknownst to Ms. Gemmell or others in OPS, she received an active/inactive White House pass holder list. To the best of EOP's knowledge and belief, Mr. Marceca also used this list to identify the individuals whose previous reports he would have to request for purposes of the Update Project, without knowing it was an active/inactive White House pass holder list.

INTERROGATORY NO. 4: For each person on Exhibit 1 who you contend did not have their FBI file obtained improperly by the Clinton White House, describe with specificity all of the facts supporting your contention.

RESPONSE: EOP objects to this interrogatory as unduly burdensome and oppressive, insofar as it is meant to call upon EOP to specify all facts, documents and witnesses that support its denial of plaintiffs' statements or allegations of fact set forth in the Complaint, or elsewhere.

Subject to this objection, and without waiving it, EOP responds that with respect to those requests listed on Exhibit A, records reflect that the FBI provided no information to the White House. See Interrogatory No. 1, subpart (a).

With respect to Congressman Clinger, EOP is aware of no request for any FBI background information pertaining to him.

With respect to the individuals listed on Exhibit B, EOP concluded on the basis of personnel records, security records, and Secret Service data that these persons continued to work at or hold

active passes to the White House complex when their previous reports were requested.

INTERROGATORY NO. 5: Identify all persons who recommended or who helped make the decision that Craig Livingstone be hired by the White House.

RESPONSE: EOP objects to the term "helped make" as vague and ambiguous, and overbroad. Subject to this objection, the following persons in some fashion either recommended or hired Craig Livingstone for White House employment:

1. Christine Varney
Federal Trade Commission (last known business address, as of 10/11/94)
6th & Pennsylvania Ave., N.W.
Washington, D.C.
Telephone No.: (202) 326-2222
2. Eli Segal
Americorps (last known business address, as of 9/28/93)
1100 Vermont Ave., N.W.
Washington, D.C.
Telephone No.: (202) 606-5000
3. Vincent Foster
deceased
4. William H. Kennedy
Rose Law Firm
120 East Fourth Street
Little Rock, Arkansas 72201
Telephone No. (c/o counsel): (501) 377-0311
5. Bernard Nussbaum
Wachtell Lipton Rosen & Katz
51 West 52nd Street
New York, New York 10019-6618
Telephone No. (c/o counsel): (212) 403-1255

INTERROGATORY NO. 6: Identify all persons who have knowledge about how Craig Livingstone became employed at the White House.

RESPONSE: See Response No. 5. EOP objects to the phrase "all